UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

C.D. KOBSONS, INC.,

Civil Action No.: 07 CV 11034 (SAS)

Plaintiff,

AFFIDAVIT OF MIGDALIA COLON IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

-against-

UNITED NATIONAL SPECIALTY INSURANCE COMPANY,

Defendant.

X------X

#### MIGDALIA ("MICKIE") COLON, being duly sworn, deposes and says:

- 1. I am currently employed by Morstan General Agency, Inc. ("Morstan") as an underwriter and I have held that position in the period from June 2004 to date.
- In the period from June 2004 up to and including October 2007, Morstan was an agent for United National Specialty Insurance Company ("UNSIC") and underwrote insurance on UNSIC's behalf.
- 3. Underwriters at Morstan, including myself, were required to underwrite in compliance with guidelines supplied by UNSIC. Copies of the pertinent guidelines are annexed as Exhibit "A".
- 4. In 2004, and in the years that followed, I was the underwriter at Morstan that underwrote coverage for C.D. Kobsons, Inc. ("Kobsons") regarding premises at 500 West 28<sup>th</sup> Street, New York, NY, also known as 311 West 28<sup>th</sup> Street, New York, NY ("premises") on UNSIC's behalf.
- 5. UNSIC originally issued to Kobsons policy number M5156187, with a policy period from June 15, 2004 to June 15, 2005 ("UNSIC policy"). The UNSIC policy was renewed in 2005

- and 2006. In 2007 the UNSIC policy was renewed again but under policy number M5200158.
- 6. In considering whether to underwrite commercial liability and property insurance for Kobsons through UNSIC, I relied upon the information submitted to Morstan by Arco Insurance Agency ("Arco") on Kobsons' behalf.
- 7. In the period from 2004 until the last renewal in 2007, Kobsons submitted four applications for consideration.
- 8. The applications forms submitted by Kobsons included an original application in 2004, a copy of which is annexed as Exhibit "B", and New York State mandated "Anti-arson" Applications for 2004, 2005, 2006 and 2007. The latter are annexed as Exhibits "C".
- 9. In 2007, Kobsons also submitted a United National Group Renewal Application form, a copy of which is annexed as Exhibit "D".
- 10. The original application (Exhibit "B") answered in the negative to a question whether "any structural alterations were contemplated" and to one that asked if any "demolition exposure contemplated."
- 11. The Anti-Arson application supplied as part of the original application in 2004 (Exhibit "C") included question 4 which asked if there were any "outstanding recorded violations of fire, safety, health, building or construction codes" at the premises. Kobsons responded to this question by checking a box indicating the answer was "No."
- 12. When the United policy was renewed in 2005, the same answer was given to question 4 on the Anti-Arson application (Exhibit "C"). The response was repeated again for the 2006 renewal ("Exhibit "C").
- 13. In 2007, the Anti-Arson application submitted on Kobsons' behalf again denied the existence of any outstanding violations ("Exhibit "C").

- 14. In 2007, Kobsons submitted a completed United National Group Renewal Application which states that it is "designed to capture any changes in operations since the prior policy was issued." The insured is also asked to "[p]rovide information which differs from the original application." Kobsons' responses are all in the negative and no information differing from the original application was supplied ("Exhibit "D").
- 15. In 2007, based upon my review of the application forms submitted on Kobsons' behalf, it appeared that there had been no violations regarding the premises in the period from 2004 through 2007 and that Kobsons had not, and did not, contemplate structural alterations or demolition exposure.
- 16. On October 23, 2007, Arco sent a facsimile, a copy of which is annexed as Exhibit "E", to Morstan concerning a letter and documentation that it had received from Kobsons. Arco requested that Morstan notify United about the information disclosed by the documents supplied and advise further.
- 17. The documents included as part of the October 23, 2007 communication from Arco are a letter of October 23, 2007 from Kobsons to Arco which states as follows:

I received a letter from NYC Department of Buildings

Commissioner and Emergency Declaration regarding the unsafe condition of the building. Our engineer will contact DOB to comply with the repairs or demolishing the building. I was advised to notify you and please notify our Insurance Carrier accordingly.

18. The October 23, 2007 communication also included a copy of correspondence from the New York City Department of Buildings which states as follows:

To Whom It May Concern:

The referenced building, or portion thereof, has been declared

unsafe and in imminent peril. It must be repaired or demolished immediately. The responsibility to take such action is yours and, because of the severity of the condition, the work must begin immediately. If you fail to do so, the City will perform the commencement of remedial work. If you fail to do so, the City will perform the necessary work and seek to recover its expenses from you.

19. The October 23, 2007 facsimile from Arco also included a New York City Department of Buildings Emergency Declaration regarding the premises which states as follows:

#### Conditions of Structure and Recommended Remedy:

Second, third and fourth stories have sagged + or -4", at the center of the building. Structural cracks have developed at exposure 4 (north wall), and interior partitions. The wood stair-assembly, at all stories, is out of level.

Provide temporary shoring at the cellar and first Remedy: story.

- 20. Upon receipt of the October 23, 2007 communication from Arco, I determined that since shoring of the premises had been mandated by the Department of Buildings, the premises now fell within the risks prohibited by UNSIC requiring cancellation of the UNSIC policy.
- 21. The UNSIC guidelines, at paragraph 14, note that "[t]he shoring.... of buildings or structures" are specifically excluded.
- 22. Since there had been no mandate that the premises had to be immediately shored when the UNSIC policy was renewed in June 2007, I determined that the UNSIC policy had to be

cancelled based upon there being a material change in the nature or extent of the risk since renewal which had increased the risk beyond that contemplated at the time the policy was renewed.

- 23. On October 25, 2007, Morstan mailed a Notice of Cancellation to Kobsons and to Arco, citing the reason for cancellation as "Statutory reason 5E". A copy of the Notice of Cancellation is annexed as Exhibit "F". Reason 5E states as follows:
  - (E) material physical change in the property insured, occurring after issuance or last annual renewal anniversary date of the policy, which results in the property becoming uninsurable in accordance with the insurer's objective, uniformly applied underwriting standards in effect at the time the policy was issued or last renewed; or material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;
- 24. On December 3, 2007, Morstan sent a check for \$2,777.55 to Arco reflecting the amount of premium returnable to Kobsons upon cancellation. However, the refund was rejected by Kobsons and sent back to Arco with a cover letter that is annexed as Exhibit "G".
- 25. Subsequent to the cancellation of the UNSIC policy, I was advised that notwithstanding the content of the applications submitted on behalf of Kobsons which denied that there were any outstanding violations, the premises had numerous outstanding violations. In addition, I was

informed that Kobsons had been seeking to have the premises vacated and to either demolish them or have extensive repairs since 2005.

- 26. I have reviewed the Department of Buildings violations that were outstanding on the premises in 2007, certified copies of which are annexed as Exhibit "H". These include the following:
  - 1. September 29, 2005---Failure to maintain interior building wall. Defects noted included a vertical crack that is six feet long and an inch wide and missing bricks in column.
  - 2. January 4, 2006--- Two violations. A) Failure to maintain building. Defects noted included sagging floors at levels one through three. B) Failure to maintain exterior wall where entire wall has cracks and missing bricks.
  - 3. January 26, 2006---- Failure to maintain exterior wall. Masonry on North façade lintels crumbling and in disrepair and mortar missing from bricks near roof level.
  - 4. June 1, 2006--- Two violations. A) Work without permit—installing steel beams and columns in cellar. B) North elevation brownstone masonry delaminating creating a hazardous condition.
- 27. I have also reviewed a list of the violations that were issued by the New York City Department of Housing and Development ("HPD") outstanding on the premises in 2007, a copy of which is annexed as part of Exhibit "H"
- 28. Since Kobsons failed to disclose the violations, at the time that the renewal of the UNSIC policy was considered in 2007, Morstan, and UNSIC, were prevented from possessing all of the facts necessary to allow it to choose whether to renew.

- 29. If Kobsons had accurately answered question 4 on the Anti-Arson application and disclosed the numerous serious structural violations, I would not have renewed the UNSIC policy under any circumstances. The violations identified the need for extensive repairs and would have triggered a need to submit the application to UNSIC for prior approval if there was to be a chance that the policy would be renewed.
- 30. In the circumstances, however, if Kobsons had disclosed the numerous serious structural and other violations. I, on behalf of Morstan and UNSIC, would have just refused to renew. Such a refusal would have been based on my knowledge that, if I referred such cases for prior approval, UNSIC would always refuse to underwrite them. With that knowledge, I always reject such risks.
- 31. In addition to failing to disclose the existence of the violations, Kobsons also failed to disclose that it had been contemplating structural alterations and demolition exposure since 2005, as is reflected in the correspondence annexed as Exhibit "I". Kobsons was required to disclose its intentions in response to the renewal application, which asked for information which differs from the original application, but failed to do so.
- 32. If Kobsons had disclosed its intention to demolish or shore up the premises in response to the renewal application, I would have not renewed the UNSIC policy as that information would clearly have brought the application within the prohibition in the UNSIC guidelines, at paragraph 14, which note that "[t]he shoring....or wrecking of buildings or structures" are specifically excluded.

Migdalia (Mickie) Colon

Sworn to before me this / 94

day of May, 2008

Votary Public

HILDA RIVERA
Notary Public, State of New York
No. 01RI-4724515
Qualified in Westchester County
Commission Expires 4/30/2010

**EXHIBIT A** 

UNITED NATIONAL GROUP / Simplified Underwriting Guide

# COMMERCIAL LIABILITY UNDERWRITING

#### I. COMMERCIAL GENERAL LIABILITY COVERAGE FORM

#### **Maximum Limits**

General Aggregate limit (other than Products/Completed Operations)

\$ two times the each occurrence limit

Products/Completed Operations limit

\$ same as each occurrence limit

Personal and advertising injury limit

\$ same as each occurrence limit

Each occurrence limit

\$ 1,000,000

Fire damage limit

\$ 50,000 any one fire

Medical expense limit

\$ 5,000 any one person

IMPORTANT NOTE: Please refer to Company with any questions after reviewing the classification section.

Aggregates per project can be considered. Please submit to Company for prior approval.

The Underwriter should follow the ISO minimum payroll rules for each state.

#### II. DEDUCTIBLES

Minimums - The following minimum liability deductibles apply:

- 1. The minimum liability deductible is \$250.
- 2. Where liability coverage is being provided solely for one or two family, tenant-occupied dwellings, the minimum deductible is \$100.

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#### III. MINIMUM PREMIUMS

Liability should be rated using the most current edition of the ISO loss cost, times the loss cost multiplier. For admitted business all applicable credits and debits should be properly documented.

Please use actual exposure base, but not less than the ISO minimum exposure bases.

The following minimum premiums shall apply to the general liability coverage part:

\$ 350	for	\$ 100,000 each occurrence	\$ 200,000 general aggregate
\$ 500	for	\$ 300,000 each occurrence	\$ 600,000 general aggregate
\$ 750	for	\$ 500,000 each occurrence	\$ 1,000,000 general aggregate
\$1250	for	\$1,000,000 each occurrence	\$ 2,000,000 general aggregate

NOTE: MINIMUM PREMIUMS APPLY REGARDLESS OF POLICY TERM EXCEPT ON ADMITTED PAPER WHERE APPROVED FILINGS WOULD BE VIOLATED.

### IV. PROPER CLASSIFICATION AND ADEQUATE EXPOSURE BASES

All accounts should be properly classified using the simplified "ISO" classification tables included in this manual.

The insured exposure should be verified by inspection and the policy should be IMMEDIATELY endorsed if the inspection report reveals any discrepancies.

If the classification is rated on area or other non-auditable bases, all chargeable area must be included using the ISO General Rules as a guide.

#### V. ADDITIONAL INSUREDS

Additional Insureds may be included after careful consideration of their insurable interest. ISO or United National Additional Insured Endorsements are to be used. Use of any other Additional Insured Endorsements must be referred to the Company for prior approval and may require Department of Insurance approval when used in conjunction with admitted paper.

Follow ISO rating methodology for Additional Insureds.

#### VI. CERTIFICATES OF INSURANCE

Only the Underwriter or the Company has authority to issue certificates of insurance. Certificates issued by the retail producer obligate the Underwriter to check each certificate for accuracy and to immediately correct any errors. A copy of all certificates must be sent to the Company.

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#### VII. COVERAGE REDUCTION CREDITS

The use of the following coverage reduction credits are permitted when restricted coverage is issued on **non-admitted** paper. It is necessary to check actual filed rates when using **admitted** paper to determine approved filing credits.

#### **Coverage Reduction Credit Table**

ISO Form Number	FORM TITLE	Percentage Credit
CG-2135	Exclusion - Coverage C Medical Payments	2%
CG-2137	Exclusion - Employees as Insureds	2%
CG-2138 (Cannot be used with CG-2140)	Exclusion - Personal and Advertising Injury	4%
CG-2139	Contractual Liability Limitation	4%
CG-2140 (Cannot be used with CG-2138)	Exclusion - Advertising Liability	2%
CG-2142	Exclusion - Explosion, Collapse, Underground	2%
CG-2145	Exclusion - Fire Damage Legal Liability	2%
SL-4	Exclusion – Assualt and/or Battery	4%
SL-31	Exclusion – Lead	4%

These credits apply to all Premises/Operations classifications when deleting Fringe Coverages.

#### VIII. PRIOR SUBMIT LIABILITY EXPOSURES

1. All liability risks that are undergoing extensive renovations.

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#### PRIOR SUBMITS (continued)

- 2. Contracting/Service applicants with no prior experience.
- 3. Low income or subsidized habitational properties.
- 4. All short term events, such as Flea Markets, Flower Shows, Exhibitions, etc.
- 5. Accounts with gross sales or receipts in excess of \$1,000,000.
- 6. Any account with more than one loss in the past two years or any one loss which exceeds \$10,000.
- 7. Any account that has more than 30% of work performed by sub-contractors can be written using the special guidelines for General Contractors.
- 8. General contractors can be written or submitted as outlined in the special guidelines for this class.
- 9. Any account that has a potential exposure to assault and battery claims, specifically those operations that employ security personnel. Although these accounts may be submitted for consideration, they are discouraged.
- 10. Any account that develops a liability premium more than \$15,000.

HOT TIP: TAVERNS AND RESTAURANTS WITH ENTERTAINMENT GENERALLY HAVE AN ASSAULT & BATTERY EXPOSURE. TO AVOID UNNECESSARY CANCELLATION, PLEASE, MAKE SURE NO ENTERTAINMENT EXPOSURE EXISTS BEFORE QUOTING!

#### IX. PROHIBITED RISKS AND CLASSIFICATIONS

Prohibited classifications are shown in the Classification Tables of this manual. We do wish to emphasize, however, that the following classifications are specifically excluded:

- 1. Habitational Risks located in Texas.
- 2. California contractors involved in residential construction or repair including apartments and condominiums.
- 3. Risks currently in receivership, bankruptcy, have a history of bankruptcy, or are otherwise not financially sound are prohibited.

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#### Prohibited Classifications (continued)

- 4. Marine Protection and Indemnity (including operation, navigation or wrecking of any vessel or barge) exposures and Aviation exposures.
- 5. Railroad Protective Coverage or any operation of a carrier on rails.
- 6. Risks involved in the production, storage, or refining of petroleum and its products, except as respects retail gasoline service stations or garages. Included in this prohibition is the manufacture, production, refinement, storage, distribution, and transportation of flammable, explosive, or caustic materials (except some local retail delivery when prior written consent is granted by the Company). Drilling for oil or natural gas and the construction or operation of any pipeline for transmission of oil or gas is also prohibited.
- 7. Manufacture, ownership, maintenance, operation or use of aircraft, aircraft parts, and airports.
- 8. Commercial or Personal Umbrella Liability.
- 9. Malpractice, Errors and Omissions, and Professional Liability (except where prior written consent is granted by the Company).
- 10. Directors' and Officers' Liability (except where prior written approval is granted by the Company).
- 11. Public Utility Business
- 12. Storage, sale, handling, or distribution of any explosive, ammunition, magnesium, fuse, fireworks, celluloid or pyroxylin or risks with gas under pressure, including liquefied petroleum gas.
- 13. Operation of an amusement park or amusement rides, circus, carnival or race track.
- 14. The shoring, moving, or wrecking of buildings or structures.
- 15. Construction, maintenance or operation of canals, dry docks, coffer dams, dams, bridges exceeding 100 feet in length, or tunnels or subways exceeding 50 feet in length.
- 16. Underground coal or asbestos mining or subaqueous operation.
- 17. Any exposure under the Longshoremen and Harbor Workers' Compensation Act.

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# COMMERCIAL PROPERTY UNDERWRITING

#### I. COVERAGES & CAUSES OF LOSS

The basic causes of loss may be provided for the following coverages:

- a. Real Property
- b. Personal Property
- c. Business Income this coverage should not be written without real and/or personal property coverages.

Broad or special causes of loss may be provided when wiring, plumbing, heating and roofing have all been updated within the last 15 years.

#### II. THEFT GUIDELINES

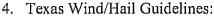
When providing special causes of loss on contents that are high target items (ie: liquor stores, drug stores, household appliances, retail clothing, etc.), higher theft deductibles must be used. Additionally, we require that the risk have a central station burglar alarm. The Protective Safeguard Endorsement, warranting that such an alarm exists and is in good working order, must be attached to the policy. Our minimum theft deductible is \$2,500 when covering high target items, however, higher theft deductibles are encouraged.

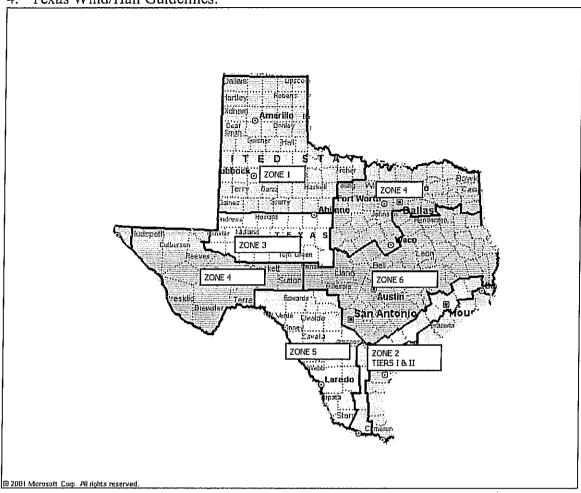
#### III. WIND AND HAIL GUIDELINES

- 1. Exclude wind on all risks located in Florida. The exclusion must be signed by the insured/
- 2. Exclude wind on risks located within 25 miles of any major body of water (except inland lakes and waterways) in the Gulf Coast States, a) Alabama, b) Georgia, c) Louisiana, d) Mississippi, e) North Carolina, f) South Carolina, g) Texas and h) Virginia.
- 3. Exclude wind on risks located within one mile of any major body of water (except inland lakes and waterways) all states North of Virginia.

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UNITED NATIONAL GROUP / Simplified Underwriting Guide COMMERCIAL PROPERTY, CONTINUED





#### IV. MINIMUM Rates by Zone

	Habitati	onal	Commercial
Zone 1	*	1.05	.80
Zone 2 Tier 1	**	.65	.50
Zone 2 Tier 2	***	.94	.79
Zone 3	*	.95	.80
Zone 4		.80	.65
Zone 5		.70	.51
Zone 6		.68	.50

<sup>\*</sup> Rates include 1% wind and hail deductible required

HOT TIP: UNITED NATIONAL IS NOT A MARKET FOR CATASTROPHE COVERAGE!

<sup>\*\*</sup> Rate includes credit for CP-1054 exclusion wind and hail, required

<sup>\*\*\*</sup> Rates include 5% wind and hail deductible (required)

#### V. PARTICIPATION

We prefer to write 100% of an account due to our ample capacity. In extenuating circumstances, you may prefer participation with other carriers. When participating on a property account, the Company's participation should represent a percentage of the entire account. When participating on any account, the forms, coverages, pricing, and effective dates used by all participating carriers MUST be concurrent.

We do not wish to participate on a property account that has been split in any other way such as real property being placed with one carrier and personal property being placed with another.

Participating carriers must have a proven track record of financial strength, Questionable carriers should be referred to the Company for approval before participation is considered.

HOT TIP: CALL US BEFORE PARTICIPATING - WE HAVE MORE CAPACITY THAN YOU MAY THINK!

#### VI. DEDUCTIBLES

Minimums - The following minimum property deductibles apply:

- 1. For accounts where the total values do not exceed \$50,000, the minimum deductible is \$500,
- 2. For accounts where total values are \$50,000 or higher, the minimum deductible is \$1,000.
- 3. A minimum \$2,500 deductible applies to theft on High Target Personal Property. Please refer to Theft Guidelines on page CP-1 for specifics. PLEASE NOTE: The use of higher deductibles is encouraged.

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HOT TIP: OUR IN-HOUSE PROPERTY CAPACITY EXCEEDS \$5,000,000 AND ADDITIONAL CAPACITY IS AVAILABLE. GIVE US A CALL.

#### VII. MINIMUM PREMIUMS AND MINIMUM ACCOUNT RATE

- 1. Property should be rated using ISO loss cost times the loss cost multiplier. (See State Exception Page)
- 2. Multiply loss costs times loss cost conversion factor to obtain a rate.
- 3. In no event should the final account rate be less than \$.30. (Exceptions may apply for those risks that have unique characteristics such as Fire Resistive Construction, Approved Sprinkler System, etc., but you are encouraged to consult with the company on these risks.

Our minimum annual policy premium for monoline property is \$350 and \$250 when written as part of a package including General Liability.

(NOTE: OUR POLICY MINIMUM PREMIUM APPLIES, REGARDLESS OF POLICY TERM!)

#### VIII. ADEOUATE INSURANCE TO VALUE/COINSURANCE

Adequate insurance to value is a key factor in establishing a satisfactory price for the exposures written. The underwriter should be conscious of the average insurable values in any given area of the country to guard against under or over insurance.

Proper insurance to value is even more critical when writing property in a valued policy state.

All real and personal property should be written on an actual cash value basis with a minimum coinsurance of 80%.

Replacement Cost coverage may be considered on buildings in excess of 15 years of age, but in no cases will replacement cost coverage be considered unless the building has been properly updated and maintained, and improvements can be documented. The minimum coinsurance requirement for replacement cost coverage is 90%.

Replacement Cost should not be provided on Contents unless prior written approval is granted by the Company.

#### IX. FINANCIAL CONDITION OF THE INSURED

An arson application may be required when the financial condition of the insured or applicant is questionable. The arson application must be signed by the Insured and the original must be forwarded to the Company. A sample copy of United National Group's Arson Application is included in this guide.

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The following accounts are unacceptable for property coverage:

- 1. Any account where the insured is in bankruptcy.
- 2. Any account where the insured is in receivership.
- 3. Any account where the insured is not otherwise financially sound.

#### X. PRIOR SUBMIT PROPERTY EXPOSURES

- 1. Any seasonal property risk.
- 2. Low income or subsidized habitational properties.
- 3. New ventures.
- 4. Any property risk which will be undergoing extensive renovations, particularly structural renovations.
- 5. Coastal properties See specific wind and hail guidelines.
- 6. Any property account with a mortgagee that is other than a financial institution.
- 7. Properties in Protection Class 8, 9 or 10.
- 8. Any account with more than one property loss in excess of \$10,000 in the past 3 years.
- 9. Policies written with no coinsurance, and/or on an agreed amount basis.

#### XI. SPECIFIC PROHIBITED PROPERTY EXPOSURES:

- 1. Business classified as either Ocean Marine or Aviation, but the prohibition does not apply to permanently moored restaurants.
- 2. Growing and/or standing crops or timber.
- 3. Plate Glass, Fidelity, and Crime Insurance, unless written as part of a multiple peril policy.
- 4. Flood, Tidal Wave, Wave Wash, and Earthquake Insurance.
- 5. Difference in Conditions Coverages.
- 6. Bridges and Tunnels.

- 7. Livestock Mortality.
- 8. Railroad Properties.
- 9. Seasonal or Resort Frame Hotels with limits exceeding \$200,000.
- 10. Production, storage, or refining of petroleum and its products, except retail gasoline service stations or garages.
- 11. Insurance that is part of any Pool, Syndicate, or Association.

## **EXHIBIT B**

ACORD COMMERCIAL INS	URANCE APPLICA	HOITE	DATE (MM/DD/Y
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68 Croft Lane	POLICIES OR PROGRAM REOU Package	:21ED	POLICY NUMBER
Smithtown NY 11787	INDICATE THE SECTIONS ATTAC	HED EQUIPMENT FLOATER	TBA
E-MAIL arco@arcoagency.com	X PROPERTY	INSTALLATION/BLDRS R	GARAGE AND DEALERS
LICENSE Agency Lic#: BR-620749	GLASS & SIGN	ELECTRONIC DATA PRO	L ALLE SCHEDULE
CODE: SUB-CODE:	ACCTS, REC. / VAL PAPERS	1	- BOILER & MACHINERY
AGENCY CUSTOMER ID FOR	CRIMENMISCELLANEOUS CF	GENERAL LIABILITY	i iWORKERS COMP.
AGENCY COSTOMER ID 608	TRANSPORTATION	BUSINESS AUTO	UMBRELLA
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THE NEW YORK	ENTER THIS INFORMATION WHEN CO	MMON DATES APPLY TO SEVERAL LINES. OR	FOR MONOLINE POLICIES
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CHANGE DATE TIME AM	J	X AGENCY BILL	
CANCEL PM	JUN 7≦04 j JU	IN 405 DIRECT BILL	ť
APPLICANT INFORMATION		*	
NAME (first Named Insured & other Named Insureds)	FEIN OR SOCSEC # (pt First Named Inscept)	MAILING ADDRESS INCL ZIP	and the state of t
C.D. KOBSON INC C/O DIANA EAMTRAKUL	PHONE (AAC, No. Ext)	212 WEST 122ND ST.	
	13	NEW YORK NY 10027	451.1
E-MAIL ADDRES(ES)		: WEBSITE ADDRES(ES)	<u>,                                    </u>
INDIVIDUAL X CORPORATION SUBCHAP	TER 'S' CORIT LIMITED LIAB COF	** * * * * * * * * * * * * * * * * * * *	ID NUMBER DATE BUSS
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DIANA EAMTRAKUL	DIANA EAMTRAKL	HAIC No Ext)	7) 447-6534 Ext( )
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1   1		DUTSIDE TENANT	·
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NATURE OF BUSINESS/DESCRIPTION OF OPERATION	S/BY PREMISE(S)		
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1720 SQ/F	T_/ LIGHT COOKING		
2ND;3RD:4TH FLOOR - 6 APPARTMENTS ( 2 Por	loon)	ARRAS	3115
GENERAL INFORMATION		3-18-08	
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1 a. IS THE APPLICANT A SURSIDIARY OF AHOTHER ENTITY?		SES OR CLAIMS RELATING TO SEXUAL ABUSE OR	YES NO
1b. DOES THE APPLICANT HAVE ANY SUBSIDIARIES?	MORES INTING	ALLEGATIONS, DISCRIPTINATION OR NEGLIGET HIR	NG7X
2. 15 A FORMAL SAFETY PROGRAM IN OPERATION?	**** TITT . ' 8. CONVICTED	LAST FIVE YEARS (TEN IN RI) HAS ANY APPU OF ANY DEGREE OF THE CRIME OF ARSON?	tto Ett this minested exect
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, CHEMICALS?	oe answered	by any applicant for ormanty insurance. Failure o	n dischara the paintness of
	- Landing a state of the state		e of up to one year of
4. ANY CATASTROPHE EXPOSURE?		RECTED FIRE CODE VIOLATIONS?	x
5. ANY OTHER INSURANCE WITH COMPANY SUBMIT FED?		CIES, TAX OR CHELINI LIENS AGAINST THE APPLICAN	TIN THE PASTS YEARS, X
** NOT RENEWED DURING THE PRIOR 3 YEARS? (Not applicable to MD	X 11. HAS BUSINESS	BEEN PLACED IN A TRUST?	x)
REMARKS/PROCESSING INSTRUCTIONS			
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			UNI 00170
·		/ Y )	3.4. 55176
NY PERSON WHO KNOWN A VIOLENCE			
ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD NSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATEI NFORMATION CONCERNING ANY FACT MATERIAL THERETO, CO	ANY INSURANCE COMPANY OF	ANOTHER PERSON FILES AN APPLIC	ATION FOR
NEORMATION CONCERNING ANY FACT MATERIAL THERETO, CO	MMITS A FRAUDULENT INSURA	: PUVLEALS FOR THE PURPOSE OF M.	SLEADING,
NFORMATION CONCERNING ANY FACY MATERIAL THERETO, CO PERSON TO CRIMINAL AND (NY: SUBSTANTHAL) CIVIL PENALTIES PROFITS may also be deliged)	S. (NOT APPLICABLE CO, HI, NE,	OH, OK, OR OF NT; In, DC, LA , ME, TN A	ND VA, Insurance
APPLICANTS :			
SIGNATURE DE LOS	PRODUCER'S SIGNATURE	\\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
ORD 125 (2002/01)	<u> </u>		
P	LEASE COMPLETE REVERSE	SIDE	ORD CORPORATION 1993

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LINE CATEGORY	YR: 03-04			YR: 98-99	YR:
CARRIER	ZURICH	USF INS CO	UTICA	GENERAL SEC	
POLICY NUMBER	CPO 3794254-00	24BM0024086-2	BOP1140430-02	22-PK-3012641	
POLICY TYPE	CLAIMS X OCCURRENCE	CLAIMS X OCCURRENCE	CLAMAS X OCCURRENCE	CLAIMS X OCCURRENCE	CLAIMS OF
RETRO DATE	<u>.</u>				
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M A LEACH OCCURRENCE	1,000,000	1,000,000	1,000,000	1,000,000	
M L FIRE DAMAGE	1,000,000	100,000	50,000	100,000	
R L   "	5,000 .	5,000	5,000	5,000	
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CARRIER	ZURICH	USF INS CO.	UTICA FIRST	GENERAL SEC	
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TOTAL PREMIUM  SS HISTORY  A ALL CLAIMS OR LOSSES (REGARI IMPRENCES THAT MAY GIVE RISE TO DATE OF CURRENCE  LINE  ARKS:  NOTE: F	TYPE/DESCRIPTION OF OCC  NONE  IDELITY REQUIRES A FIVE YE  ON PRACTICES (PRIVACY) HAS BEE  IACTICES  CUDING INFORMATION FROM A C.  SUBSEQUENT POLICY RENEWALS.	CURRENCE OR CLAIM  CURRENCE OR CLAIM  AR LOSS HISTORY.  EM GIVEN TO THE APPLICANT. (NO.  CREDIT REPORT, MAY BE COLLECT SUCH INFORMATION AS WELL AS	DATE OF CLAIM  DI applicable in all slates, cunsult y  STED FROM PERSONS OTHER T	AMOUNT AMOUNT RESERVED  STATE SUPI	CLAIM STATUS  OPEN  CLOSED  OPEN  CLOSED  PLEMENT(S)

ir O. Arrascue

MAY 12 2004 13:28 FR BENCHMARK MANAGEMENT212 9521388 TO 16313662589

P.02



#### COMPREHENSIVE EXPERIENCE REPORT POLICY EXPERIENCE SUMMARY

CLAIM VALUATION AS OF: MAY 12, 2004 06/05/03-PRESENT ANALYSIS PERIOD INSURED POLICY NUMBER C.D. KOBSON, INC CPO3794254 C/O DIANA EAMATAKUL

#### TOTAL ALL COVERAGES POLICY NUMBER - CP03794254

Retro Premium	Number Claims	Paid	Expense	Open Reserve	Total Losses	Loss Ratio
\$0.00	20.00	\$0.00	\$0.00	50.00	50.00	0.00%

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JUN 03 2004 14:41 FR BENCHMARK MANAGEMENT212 9521398 TO 16313662589

P.03/03

USF INSURANCE

USF Insurance Co. 293 Eisenhower Parkway Livingston, New Jersey 07039

June 3, 2004

Irma Hernandez Benchmark

Re: Loss Run Request

C.D. Kobson Inc.

24BM0024086-2 06/05/02 - 06/05/03

The following loss history is provided as of March 2004:

No claims on record.

This information applies to the above policy number(s) only. Any other coverage periods written under a different policy number are not reflected in this report.

Michelle Matos

Telephone (973) 422-9700 Fax No. (973) 422-9200 Toll Free: (800) 535-0177

No. 26

ACORD F	PROPER	CTY S	SECT	IUN				MAY 28 0
PRODUCER FAX	PRO, Early: 831-366-258		APPLI (First Named Insured	C.D. KOBSI	DN INC C/O DI	ANA EAM	TRAKUL	
68 Croft Lane Smithtown NY 11787			EFFE	CTIVE DATE	EXPIRATION D	IATE X	AGENCY BILL   PAYME	NT PLAN AUDIT
<del></del>	arco@arcoagency.co	ım	JU FOR	JN: 04	_ JUN 05	5 , ,	DIRECT BILL	المستعدد المستعدد
CODE: AGENCY CUSTOMER ID: 608	:SUB CODE:		COMPAN USE ONL	łΥ .Υ				
		-PREMISES #	. '		= 500 W. 28th	Street	•	<del>_</del> .
PREMISES INFORMAT	·	BUILDING #:		DH CAUSES C	1 1150 4710	ON DEDU	CTIBLE BLANKET	FORMS AND CONDITIONS TO APP
BUILDING	650,00	• • •	ACV	BAS	510	\$1,000		
BUSINESS INCOME	\$50,000	1 1 80 %	ACV	FIRE	<del> </del>			•
		; ;						
ADDITIONAL INFORMA	<u>::::::::::::::::::::::::::::::::::::</u>		EXTRA EXPE		BUSINESS INCO	DME WIO EXT	OFF PREM POWER	EXTRA EXPENSE
YPE OF BUSINESS ORDINAR  X NON MFG EXCL		RVHEAT		DAYS!	TUITION FEES	TUDENTS	POWER	- A COIN
MFG 96	D DAYS ELEC		MO PE	LIMIT:	OT SE	THER ED	WATER COMM (DESCR BELOW)	CONT LOC REC LOC
% COINS		DAYS	s:	PERIOD			EXTRA	LDR LCO (DESCR BELOW
AME AND ADDRESS(ES) FOR C	OFF PREM POWER OR D	EPEND PROP					EXPENS LIMIT LOSS	
ODMONAL COVERAGES, OPTI	ONS, RESTRICTIONS, E	NDORSEMENT	TS AND RATIN	IG INFORMATION				54,, %.
DISTIONAL COVERAGES, OPTI	DISTAL	NCE TO !		IG INFORMATION	мвея Р	ROT CL   #		54. %.
INSTRUCTION TYPE		NCE TO FIRE STATE	FIRE DI	ISTRICT/CODE NU		. 4	STORIES # BASMTS	94 %
NSTRUCTION TYPE	DISTAI HYDRANT	NCE TO FIRE STATE	FIRE DI	ISTRICT/CODE NU		ROT CL # 4 THER OCCUP	STORIES # BASMTS	S YR BUILT   TOTAL AREA
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:	DISTAI HYDRANT FT	NCE TO FIRE STAT	FIRE DI	TAX CODE RO	DOF TYPE OT	THER OCCUP	STORIES # BASMTS	54 %  54 YR BUILT   TOTAL AREA   1950   39605Q/FT   9,024
INSTRUCTION TYPE RICK ILDING IMPROVEMENTS WIRING, YR:	DISTAI HYDRANT FT PLUMBING, YR:	NCE TO   FIRE STAT   MI   BI	FIRE DI	TAX CODE RO	DOF TYPE OT	4 THER OCCUP HEATING BOIL F YES, IS INSI	STORIES # BASMTS ANCIES ER ON PREMISES 7	54 %  54 YR BUILT   TOTAL AREA   1950   39605Q/FT   9,024
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  ROOFING, YR:  OTHER	DISTAI HYDRANT FT PLUMBING, YR:	NCE TO   FIRE STAT   MI   BI	FIRE DI LOG CODE GRADE AIND CLASS RESISTINE RESISTINE & DISTA	TAX CODE RO	DOF TYPE OT	4 THER OCCUP HEATING BOIL F YES, IS INSI	STORIES # BASMTS ANCIES ER ON PREMISES 7 IRANCE PLACED ELSEV SURE & DISTANCE EXTENT   GRADE	54 %  54 YR BUILT   TOTAL AREA   1950   39605Q/FT   9,024
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER:  SHT-EXPOSURE & DISTANCE	DISTAI HYDRANT FT PLUMBING, YR: HEATING, YR:	NCE TO FIRE STATE MI STATE WAS STATE OF THE	FIRE DI LOG CODE GRADE AIND CLASS RESISTINE RESISTINE & DISTA	TAX CODE RO	OOF TYPE OT	HEATING BOIL F YES, IS INSI	STORIES # BASMTS ANCIES ER ON PREMISES 7 JRANCE PLACED ELSEV	S YR BUILT TOTAL AREA 1950 3960SQ/FT 9,024 NHERE 7 YES NO CENTRAL STATION WITH KEYS
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER  BHT-EXPOSURE & DISTANCE  RIGLAR ALARM TYPE	PLUMBING, YR: HEATING, YR:	NCE TO FIRE STATE MI	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #	TAX CODE ROSESTIVE RESISTIVE EXP	OOF TYPE OT	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPO	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  SURE & DISTANCE  EXTENT   GRADE	S YR BUILT TOTAL AREA 1950 3960SQ/FT 9,024  WHERE? YES NO  CENTRAL STATION WITH KEYS
PINSTRUCTION TYPE  RICK  IL DING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER:  SHT-EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN	PLUMBING, YR: HEATING, YR:	NCE TO FIRE STATE MI	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #	TAX CODE RO  SEMI- RESISTIVE  NCE  EXP	ODF TYPE OT H	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPO	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  SURE & DISTANCE  EXTENT   GRADE	S YR BUILT   TOTAL AREA   1950   39605Q/FT   9,024   YES! NO   NHERE 7   YES! NO   CENTRAL STATION   WITH KEYS   CLOCK HOURLY   CENTRAL STATION
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR: ROOFING, YR: OTHER:  BHT EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  EMISES FIRE PROTECTION (Sp.  DITIONAL INTERESTS  IK: NAME AND ADDRE	DISTAI HYDRANT FT PLUMBING, YR: HEATING, YR: D SERVICED BY	NCE TO FIRE STAT MI BI	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #	TAX CODE RO  SEMI- RESISTIVE  NCE  EXP	OOF TYPE OT H	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPO	STORIES # BASMTS ANCIES  ER ON PREMISES 7 FRANCE PLACED ELSEV SURE & DISTANCE  EXTENT ! GRADE # GUARDS/WATCHMEN	S YR BUILT   TOTAL AREA 1950   3960 SQ/FT   9,024   YES! NO WHERE 7 YES! NO CENTRAL STATION WITH KEYS   CLOCK HOURLY   CENTRAL STATION LOCAL GONG   INTEREST IN ITEM NUMBER BUILDING:
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER:  BHT EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  EMISES FIRE PROTECTION (Sp.)  DITIONAL INTERESTS	DISTAI HYDRANT FT PLUMBING, YR: HEATING, YR: D SERVICED BY	NCE TO FIRE STAT MI BI	FIRE DI ILDG CODE GRADE VIND CLASS RESISTINE SURE & DISTA	TAX CODE RO  SEMI- RESISTIVE  NCE  EXP	OOF TYPE OT H	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPO:	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  FUHE & DISTANCE  EXTENT   GRADE  # GUARDS/WATCHMEN  LDCATION:	S YR BUILT TOTAL AREA  1950 396650/FT  9,024  VESI NO  CENTRAL STATION WITH KEYS  CLOCK HOURLY  CENTRAL STATION LOCAL GONG  INTEREST IN ITEM NUMBER BUILDING:
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER  BHT-EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  EMISES FIRE PROTECTION (Sp.  BITIONAL INTERESTS  IK:  NAME AND ADDREST  RESTS  LOSS  RAYEE  MOOTI.  GAGEE  ITEM DESCRIPTION	PLUMBING, YR: HEATING, YR: D SERVICED BY rinklers, Standpipes, CO	NCE TO FIRE STAT MI BI	FIRE DI ILDG CODE GRADE VIND CLASS RESISTINE SURE & DISTA	TAX CODE RO  SEMI- RESISTIVE  NCE  EXP	OOF TYPE OT H	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPO:	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  SURE & DISTANCE  EXTENT ! GRADE  # GUARDS/WATCHMEN  LOCATION: SCHEDULE OTHER:	S YR BUILT TOTAL AREA  1950 396650/FT  9,024  VESI NO  CENTRAL STATION WITH KEYS  CLOCK HOURLY  CENTRAL STATION LOCAL GONG  INTEREST IN ITEM NUMBER BUILDING:
INSTRUCTION TYPE  RICK  IL DING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER  BHT-EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  EMISES FIRE PROTECTION (Sp.  BITIONAL INTERESTS  IK:  NAME AND ADDRE	PLUMBING, YR: HEATING, YR: D SERVICED BY rinklers, Standpipes, CO	LEFT EXPO	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #  Systems ENCE #:	TAX CODE RO  SEMI- RESISTIVE  NCE  EXP	OOF TYPE OT HE STATE OF THE STA	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPOS  TURER  CATE REQUIRE	STORIES # BASMT!  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  SURE & DISTANCE  EXTENT ! GRADE  # GUARDS/WATCHMEN  SCHEDULE  OTHER:	S YR BUILT   TOTAL AREA 1950   396050/FT   9,024   YES   NO WHERE 7   YES   NO WITH KEYS   CLOCK HOURLY   CENTRAL STATION   LOCAL GONG   INTEREST IN ITEM NUMBER   BUILDING:  ITEM NUMBER:  UNI 001  : PREMISES NOT OWNED
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR:  RODFING, YR:  OTHER  BHT-EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  MISES FIRE PROTECTION (Sp.  BITIONAL INTERESTS  IK:  NAME AND ADDRE  ERESTS  LOSS  PAYEE MORT.  SAGEE  ITEM DESCRIPTION  LUE REPORTING INFOR	PLUMBING, YR: HEATING, YR: HEATING, YR: Thinklers, Standpipes, CO	LEFT EXPO	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #  Systems ENCE #:	TAX CODE RO  SEMI- RESISTIVE NICE  EXP	OOF TYPE OT HE IF OTHER IF I I I I I I I I I I I I I I I I I I	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPOS  TURER  ATE REQUIRE	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED FLSEV  SURE & DISTANCE  EXTENT   GRADE  # GUARDS/WATCHMEN  LOCATION: SCHEDULE OTHER:	S YR BUILT TOTAL AREA 1950 396050/FT 9,024  WHERE 7 YES! NO  CENTRAL STATION WITH KEYS CLOCK HOURLY  CENTRAL STATION LOCAL GONG  INTEREST IN HEM NUMBER BUILDING: ITEM NUMBER:  UNI 001
INSTRUCTION TYPE  RICK  ILDING IMPROVEMENTS  WIRING, YR: RODFING, YR: OTHER:  BHT EXPOSURE & DISTANCE  RIGLAR ALARM TYPE  RIGLAR ALARM INSTALLED AN  MISES FIRE PROTECTION (Sp.  BITIONAL INTERESTS  IK: NAME AND ADDRE  RESTS  LOSS  RESTS  LOSS  ROBE  ITEM DESCRIPTION  UE REPORTING INFOR	PLUMBING, YR: HEATING, YR: HEATING, YR: Thinklers, Standpipes, CO	LEFT EXPO	FIRE DI LDG CODE GRADE AND CLASS RESISTNE SURE & DISTA TE #  Systems ENCE #:	SEMI- RESISTIVE ANCE  EXP  ** SPRINK FIRE  0	OOF TYPE OT HE INTERPRETATION DATE  ANY OTHER TION DECL.	THER OCCUP HEATING BOIL F YES, IS INSI REAR EXPOS  TURER  ATE REQUIRE	STORIES # BASMTS  ANCIES  ER ON PREMISES 7  JRANCE PLACED ELSEV  GURE & DISTANCE  EXTENT ! GRADE  # GUARDS/WATCHMEN  COTHER:  ANY OTHER LOCATION ACQUIRED	SYR BUILT TOTAL AREA  1950 396050/FT  9,024  WHERE 7 YES NO  CENTRAL STATION WITH KEYS  CLOCK HOURLY  CENTRAL STATION LOCAL GONG  INTEREST IN ITEM NUMBER BUILDING:  ITEM NUMBER:  UNI 001

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Smithto	own NY 11787		E	FFECTIVE DAT JUN - 34	1E		TION DATE	X		- 1	PAYMENT PLA	N	. "
FAX	c: 631-366-2589			JUN - 14		7014			DIRECT	ВІЩ			<u>:</u>
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CODE:	SUB CI	ODE:	COMPA										
AGENCY	Y 608												
COVER	RAGES	LIMITS										PREMIUMS	
X COY	MMERCIAL GENERAL LIABILITY		AGGREGATE				=		2,000		PREMISES/OP		
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		AREA - PER 51,000		(M) ADI	WISSIONS - P	ER \$1,000/A		т) отн					
	MADE (Explain All "Yes" R			EMPLOYE	E BENIFIT	S LIABII	LITY						
	D RETROACTIVE DATE:	<u></u>					CLAIM: 5						
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	RODLICT, WORK, ACCIDENT, OR L	OCATION -		YES NO	3. NUMBE	R OF EMPL	OYEES COVE	RED BY	EMPLOY	E BEN	IEFITS PLANS.		
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6F: 56-2589

	NES(For all Past or Present Operations)			YES			(For any Past or Present Opera	
1 DOES APPLICANT DRAW'P FOR OTHERS?	LANS,DESIGNS,OR SPECIFICATIONS			t }	LES	THAN YOURS?	CARRY COVERAGES OR LIM	
2 DO ANY OPERATIONS INCU	.UDE BLASTING OR UTILIZE OR STORE	È		!	5. ARE	SUBCONTRACTORS ALLO VIDING YOU WITH A CERT	WED TO WORK WITHOUT FICATE OF INSURANCE?	
3 DO ANY OPERATIONS INCL UNDERGROUND WORK OR	UDE EXCAVATION, TUNNELING.				6. DUE	S APPLICANT LEASE EUU IOUT OPERATORS?	PMENT TO OTHERS WITH O	R
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	ROCHURES, LABELS, WARNINGS, ETC.		-			<del></del>		
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LIENHOLDER	i i						JOHNES.	
EMPLOYEE AS LESSOR								
	ITEM DESCRIPTION:				<del></del>	<u> </u>		
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ANY MEDICAL FACILITIES PRO	OVIDED OR MEDICAL		Х	13.				
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68 Croft La. Smithtown NY 11787 (631) 366-2033 FAX (631) 366-2589

## Facsimile Transmittal

MICKIE	
To: Of:	
From: CEFAN Date: 6/2/04 Pages: 7	· 
Re: C.D. KOBSON - Couste	
vcc:	
Urgent ☐ For Review ☐ Please Comment ☐ Please Repl	ay 
Please als H Quate - presen	1
expires on 6/5/04. Plank you Co	TAR

## **EXHIBIT C**



### Document 14-4

Filed 05/20/2008

Page 2 of 9

#### STATE OF NEW YORK ANTI-ARSON APPLICATION (NYFA-1) PART 1

M5156187

WARNING:

This application must be completed and returned by the applicant or insured pursuant to Section 168-j of the New York Insurance Law and Insurance Department Regulation 96.

	,
C.D KOBSON The.	
NAME OF APPLICANT OR INSURED C.D. SEE Sheet N.Y. C. NY 100.	01
Amount of Insurance \$ 650,000 Applicant is: Owner Occupant Absentee Owner Tenant	Other
Amount of Insurance &	
OCCUPANCY(IES)	
VALUATION: This information helps to explain the amount of insurance selected at the time of application, but does n	ot determine the value at the time of loss
PURCHASE INFORMATION: Date Price \$ 225,000 Cost of subsequent impr  Estimated Replacement Cost \$ Estimated Fair Market Value (exclusive of land) \$	ovements \$ /JO 000
PURCHASE INFORMATION: Date Free 5 Basic Market Value Joseph Market Value Value Value Value Value Value Value Valu	0,000
Estimated Pair Market Value Text Indicate the Appual Rental Income \$ 80,000	
For fental properties, indicate the Almost Kental means of the properties and the properties of the pr	
Check the valuation method used to establish the amount of insurance:	lund)
Replacement Cost	191101
□ Replacement Cost Less Physical Depreciation □ Other □ Other □ Who determined the value? □ UNFIRMICE Co.	Attach a copy of any appraisal.
Who determined the value?	Attach a copy of any approximan
	The state of the s
UNDERWRITING INFORMATION: If the answer to any of the following questions is "yes" complete the corresponding	g numbered section of Part 2.
ONDERWRITING INFORMATION. If the absect to any at the second of	YES NO
	153
1. Is the applicant other than an individual or sole proprietorship?	~ · · · · · · · · · · · · · · · · · · ·
2. Are any mortgage payments (building or contents) overdue by 3 months or more?	
3. Are there any real estate tax liens or other tax liens against the property or real estate taxes overdue for one year of	
4. Are there any outstanding recorded violations of tire, salety, health, building or construction codes at this location	property diving the last 5
5. Has anyone with a financial interest in this property been convicted of arson, fraud or other crimes related to loss on	property during the last o
years?	~ · · · · · · · · · · · · · · · · · · ·
6. Is the mortgagee other than a federal or state chartered lending institution?	
7. Except where federal or state chartered lending institutions are the applicants, please furnish the following inform	idion:
Have there been lire losses during the past five years exceeding \$1,000 in damages to this property or to a	my property in writer the
applicant has an equity interest as an owner or mortgagee?	— — — — — — — — — — — — — — — — — — —
8. (a) If the property is commercial, is more than 10% of the rentable space vacant, unoccupied or seasonal?	
(b) If the property is residential, are 5% or more of the apartments vacant, unoccupied or seasonal?	
(c) Is the water, sewage, electricity or heat out of service?	<del>-:-</del>
9. OTHER POLICIES:	
(a) Is there any other insurance in force or applied for on this property?	<u> </u>
(b) Has any coverage or policy on this property been declined, cancelled or non-renewed in the last 3 years?	— <del></del>
10. Has this property been under the ownership of the applicant for less than 3 years?	
TO DEED AND MICHOANICE COMPA	NY OR OTHER PERSON FILES
ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPA	1111 011 0111211
AN APPLICATION FOR INSURANCE CONTAINING ANY FALSE INFORMATION, OR CONC.	A EDALIDIU ENT INSURANCE
MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS	A PRAUDULENT INDOMINION
ACT, WHICH IS A CRIME.	_
AND THE PARTY OF T	ACRES THAT THESE APPLI-
THE PROPOSED INSURED AFFIRMS THAT THE FOREGOING INFORMATION IS TRUE AND	AGREES THAT THESE ATTEM
CATIONS SHALL CONSTITUTE A PART OF ANY POLICY ISSUED WHETHER ATTACHED OR	NULAND INAL ANT TILLION
CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES	SHALL BE GROUNDS TO KE
SCIND THE INSURANCE POLICY // ///	
1 L. IVEUX PA.	7-22-04
1 100 100 100 100 100 100 100 100 100 1	DATE
SIGNATURE OF PROPOSED INSURED TITLE	DAIL THE MALE OF AUGUST V
INSUREDS SHALL NOTIFY THE INSURER IN WRITING OF ANY CHANGE IN THE INFORMATION CONTAINED HER	EIN, UPON RENEMAL UK ANNUALLI
WHICHEVER IS SOONER. FAILURE TO COMPLY MAY RESULT IN RESCISSION OF YOUR POLICY.	

Case 1:07-cv-11034-SAS<sup>ANT</sup> DOSANNAMPLICATIONFiled 05/20/2008 Page 3 of 9 (NYFA-1) PART 2

OWNERSHIP INFORMATION:		the same		
. List the names and addresses of:				
Shareholders of a corporation Partners including limit	ted partners Truste	es and beneficiaries		
Note: List only those possessing an ownership interest of 25% or	more, except for close o	orporations and beneficiario	es where all-owners should be	listed.
NAME DOUNGRAT EAMTRAKU	ADDRESS	A T	_ POSITION	INTEREST 9
DOUNGRAT EAMTRAKU	102W.	118 581	PRET.	00%
Mortgage Payments: Mortgagee		Dale Due	Amount Due	-
List-any other encumbrances:			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	*——
. Unpaid Taxes or Unpaid Liens: Type		Date Due	Amount Due	•
. Code Violations: Date Describe			Amount Due	¥:
i. Convictions: Date Describe				
. Name(s) of Unchartered Mortgagee(s):				
7. Losses:				
	Da!e Ai	וחניםו	D	
	\$		Description	
	<del></del>			
				<del>,</del>
3. Vacancy and/or unoccupancy:				
Indicate seasonal period (if any) when building is unused:				
For apartment buildings indicate: Total Units	-	its	_	
For other buildings indicate: Vacancy% Unoccupancy	/%			
For al' buildings indicate the following:				
Reason for vacancy/unoccupancy:			·	
Anticipated date of occupancy:				
If the building is vacant or unoccupied, indicate how it is protect	ted from unauthorized	entry		
_				
Is there a governmental order to vacate or destroy the building of it water, sewage, electricity or heat is out of service, explain circular there unrepaired damage or have items been stripped from the latter.	cunistances:e building?	classifed as uninhabitable	or structurally unsafe?	
If Yes, Describe:				
Is the building for sale? If Yes, date put up for sale:				
9. OTHER POLICIES: Indicate status: (In force, applied for, declin		ewed) -		
Status Date Amount of In		Carrier	Policy #	<del>y</del>
<u> </u>				
0. List all real estate transactions during last 3 years involving this			•	
Date Selling Price Na	me of Seller	Amount of Mortgage	Mortgage	
<u> </u>		\$		_
ANY PERSON WHO KNOWINGLY AND WITH INTEN AN APPLICATION FOR INSURANCE CONTAINING MISLEADING, INFORMATION CONCERNING ANY ACT, WHICH IS A CRIME.	ANY FALSE INFO	RMATION OR CONC	FAIS FOR THE BUIDS	
THE PROPOSED INSURED AFFIRMS THAT THE FO CATIONS SHALL CONSTITUTE A PART OF ANY PO CONCEALMENT OR MISREPRESENTATION OF A SCIND THE INSURANCE POLICY.	LICY ISSUED WHE	THER ATTACHED OF	NOT AND THAT AND IN	11 2 5 1 2 2
SIGNATURE OF PROPOSED IN	ISUNED	TITLE		· - <del></del>
		HILL	n i	I C



Section 1684 of the New York Insurance Law and Insurance Department Regulation 96.
NAME OF APPLICANT OR INSURED C.D. KOBSON, INC
LOCATION OF PROPERTY 500 W. 28TH STREET, NEW YORK, NY 10001
Amount of Insurance \$ 650,000 Applicant is: [] Owner Occupant [] Absentee Owner [] Tenant [] Other
DCCUPANCY(IES) MERCANTIL / RESIDENTIAL
VALUATION: This information helps to explain the amount of insurance selected at the time of application, but does not determine the value at the time of loss.
PURCHASE INFORMATION: DatePrice \$ 225,000 Cost of subsequent improvements \$ 150,000
Estimated Replacement Cost \$Estimated Fair Market Value (exclusive of land) \$_750,000
For rental properties, indicate the Annual Rental Income 5 80,000
Check the valuation method used to establish the amount of insurance:
M Replacement Cost - [ ] Fair Market Value (exclusive of land)
Replacement Cost Less Physical Depreciation   Other
Who determined the value? INSURANCE CO. Attach a copy of any appraisal.
UNDERWRITING INFORMATION: If the answer to any of the following questions is "yes" complete the corresponding numbered section of Parl 2.
YES NO
1. Is the applicant other than an individual or sole proprietorship?
2. Are any mortgage payments (building or contents) overdue by 3 months or more?
3. Are there any real estate tex liens or other tex liens against the property or real estate texes over due to have year or more?
4. Are there any outstanding recorded violations of fire, safety/health, building or construction corps at this location?
5. Has arryone with a financial interest in this property been collected of arson, fraud or other chines related to loss on property during the last 5 years?
6. Is the mortgagee other than a federal or state that learning institution?
7. Except where federal or state chartered lepting institutions are the applicants, please furnish the following information:
Have there been fire losses during the past five years exceeding \$1000 in damages to this property or to any property in which the
applicant has an equity interest as an owner or mortgagee?
B (a) If the property is commercial, is more than 10% of the tentable space vacant, unoccupied or sessonal?
(b) If the property is residential, are 5% or more of the apartments vacant, unoccupied or seasonal?
(c) Is the water, sewage, electricity or heat out of service?
9. OTHER POLICIES:
(a) Is there any other insurance in force or applied for on this property?
(b) Has arry coverage or policy on this property been declined, cancelled or non-renewed in the last 3 years?
1O. Has this property been under the ownership of the applicant for less than 3 years?
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ERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY
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Page 1 of 2

	ANTI-ARSON APPLICATIO
• • •	(NYFA-1) PART 2
OWNERSHIP INFORMATION:	- · · · ·

ist the names and addresses of:	tiners, including limited partners	Trustees and beneficies	nee .
ote: List only those possessing an ownership inte			
	ADDRESS	•	OSITION INTEREST %
		. **	
A Designation Market Day		D-1- D-1-	
ortgage Payments: Mortgagee st any other encumbrances:		Date Due	Amount Due \$
paid Taxes or Unpaid Liens: Type		Duta Dan	
ode Violations: DateDes			Amount Due \$
	SA (DC		
		Name of Person	
me(s) of Unchartered Mortgagee(s):			
5525.			
Location	Date /	Amount	Description
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			•
cancy and/or unoccupancy:		•	
icate sessonal period (if any) when building is un			
apartment buildings indicate: Total Units			_
other buildings indicate: Vacancy	% Unoccupancy	%	
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eson for vacancy/unoccupancy.			
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Filed 05/20/2008

STATE OF NEW YORK ANTI-ARSON APPLICATION (NYFA-1) PART 1

WARNING:

This application must be completed and returned by the applicant or insured pursuant to Section 168-j of the New York Insurance Law and Insurance Department Regulation 96.

NAME OF APPLICANT OR INSURED C.D. KORSON TNC
LOCATION OF PROPERTY 500 W 28TH STREET NEW YORK NY 10001
LOCATION OF PROPERTY 500 W 28TH STREET NEW YORK NY 12001  Amount of Insurance \$ 650,000 Applicant is: [] Owner Occupant [MAbsentee Owner [] Tenant [] Other
OCCUPANCY(IES)MERCANTIL / RESIDENTIAL
OCCUPANCY (IES)MRRCANTILL - TYDDIBEN
VALUATION: This information helps to explain the amount of insurance selected at the time of application, but does not determine the value at the time of loss.
VALUATION: This information helps to explain the street and the st
PURCHASE INFORMATION: Date
Contract Contract Cost &
For rental properties, indicate the Annual Rental Income \$
y and the discount of the amount of insurance.
The state of the s
1 Other
Who determined the value? INSURANCE_COMPANY Attach a copy of any appraisal.
Who determined the value?
UNDERWRITING INFORMATION: If the answer to any of the following questions is "yes" complete the corresponding numbered section of Parl 2.  YES NO
UNDERWRITING IN CHAIN THE STATE OF THE STATE
1. Is the applicant other than an individual or sole proprietorship?
( m. duling as combanic) overring by 3 mappins of more r
4. Are there any outstanding recorded violations of tire safety, health, building of converted of arson, frank of other crimes related to loss on property during the  5. Has anyone with a financial interest in this property been convicted of arson, frank of other crimes related to loss on property during the
5. Has anyone with a financial interest in his industribused contributes at a second contribute and the second contributes at a second contribute at a second co
last 5 years?  6. Is the mortgagee other than a federal of state chartered lending institution?
7. Except where federal or state chartered lending institutions are the application, process to this property or to any property in which the  Have there been fire losses during the past five years exceeding \$1000 in damages to this property or to any property in which the
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8. (a) If the property is commercial, as the distribution of the apartments vacant, unoccupied or seasonal?  (b) If the property is residential, are 5% or hope of the apartments vacant, unoccupied or seasonal?
(b) If the property is residential, and a head out of service?
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10. Has this property been under the ownership of the applicant for less than 3 years?
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ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

THE PROPOSED INSURED AFFIRMS THAT THE FOREGOING INFORMATION IS TRUE AND AGREES THAT THESE APPLICATIONS SHALL CONSTITUTE A PART OF ANY POLICY ISSUED WHETHER ATTACHED OR NOT AND THAT ANY WILLFUL CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES SHALL

BE GROUNDS TO RESCIND THE INSURANCE POLICY.

SIGNATURE OF PROPOSED INSURE

TITLE

INSUREDS SHALL NOTIFY THE INSURER IN WRITING OF ANY CHANGE IN THE INFORMATION CONTAINED HEREIN, UPON RENEWAL OR ANNUALLY WHICHEVER IS SOONER. FAILURE TO COMPLY MAY RESULT IN RESCISSION OF YOUR POLICY.

#### STATE OF NEW YORK **ANTI-ARSON APPLICATION** (NYFA-1) PART 2

	OWNERSHIP INFORMATION:
1.	List the names and addresses of:

	ADDRES		POSITION	INTEREST
Mortgage Payments: Mortgagee			Amount [	Due \$
list any other encumbrances:				
Inpaid Taxes or Unpaid Liens: Type_		Date Due	Amount [	Due \$
Code Violations: Date	Describe	117.0 E M. 1.1		
Convictions: DateDes				
Varne(s) of Unchartered Mortgagee(s)	•	Name of Person		
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the building is vacant or unoccupied, inc	licate now it is protected from unautho	rized entry		
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water, sewage, electricity or heat is out of there unrepaired damage or have items if yes, Describe:  the building for sale? If yes, date put THER POLICIES: Indicate status: (In for Status Date  st all real estate transactions during last Date Selling Price \$  PERSON WHO KNOWINGLY AS AN APPLICATION FOR IN	been stripped from the building?  up for sale: rce, applied for, declined, cancelled or Amount of Insurance  3 years involving this property. Name of Seller  AND WITH INTENT TO DEFI	Amount of M  S  RAUD ANY INSURA	ortgage  VCE COMPANY OF	Policy#  Mortgagee  R OTHER PER
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THE PROPOSED INSURED AFFIRMS THAT THE FOREGOING INFORMATION IS TRUE AND AGREES THAT THESE APPLICATIONS SHALL CONSTITUTE A PART OF ANY POLICY ISSUED WHETHER ATTACHED OR NOT AND THAT ANY WILLFUL CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES SHALL

TITLE

BE GROUNDS TO RESCIND THE INSURANCE POLICY.

SIGNATURE OF PROPOSED INSURED



### 1:07-cv-11034-SAS Document 14-4

Filed 05/20/2008 Page 8 of 9

STATE OF NEW YORK ANTI-ARSON APPLICATION (NYFA-1) PART 1

POLICY #: M5200158

This application must be completed and returned by the applicant or insured pursuant to

Section 168-j of the New York Insurance Law and Insurance Department Regulation 96.	
NAME OF APPLICANT OR INSURED C.D. KOBSON INC	
LOCATION OF PROPERTY_ 500 W 28TH STREET NEW YORK NY 10001	
Amount of Insurance \$ 800,000 Applicant is: [] Owner Occupant [v] Absentee Owner [] Tenant [] Other	
·	
OCCUPANCY(IES)	
VALUATION: This information helps to explain the amount of insurance selected at the time of application, but does not determine the value at the time of	l loss.
PURCHASE INFORMATION: Date 1987 Price \$ 225,000 Cost of subsequent improvements \$ 150,000	
Estimated Replacement Cost \$Estimated Fair Market Value (exclusive of land) \$	
For rental properties, indicate the Annual Rental Income \$	·
Check the valuation method used to establish the amount of insurance:	
Replacement Cost [ ] Fair Market Value (exclusive of land)	
Replacement Cost Less Physical Depreciation       Other	
Who determined the value? INSURANCE COMPANY Attach a copy of any appraisal.	
UNDERWRITING INFORMATION: If the answer to any of the following questions is "yes" complete the corresponding numbered section of Part 2.	
YES	NO
1. Is the applicant other than an individual or sole proprietorship?	-
2. Are any mortgage payments (building or contents) overdue by 3 months or more?	-
3. Are there any real estate tax liens or other tax liens against the property or real estate taxes over due for one year or more?	
4. Are there any outstanding recorded violations of fire, safety, health, building or construction codes at this location?	<u></u>
5. Has anyone with a financial interest in this property been convicted of arson, fraud or other crimes related to loss on property during the last 5 years?	$ \angle $
6. Is the mortgagee other than a federal or state chartered lending institution?	<u> </u>
<ol> <li>Except where federal or state chartered lending institutions are the applicants, please furnish the following information:</li> </ol>	j
Have there been fire losses during the past five years exceeding \$1000 in damages to this property or to any property in which the applicant has an equity interest as an owner or mortgagee?	A
8. (a) If the property is commercial, is more than 10% of the rentable space vacant, unoccupied or seasonal?	<del>-</del> 1
(b) If the property is residential, are 5% or more of the apartments vacant, unoccupied or seasonal?	
(c) Is the water, sewage, electricity or heat out of service?	<b>—</b> ]
applicant has an equity interest as an owner or mortgagee?  8. (a) If the property is commercial, is more than 10% of the rentable space vacant, unoccupied or seasonal?  (b) If the property is residential, are 5% or more of the apartments vacant, unoccupied or seasonal?  (c) Is the water, sewage, electricity or heat out of service?  9. OTHER POLICIES:  (a) Is there any other insurance in force or applied for on this property?	
(a) Is there any other insurance in force or applied for on this property?	
(b) Has any coverage of policy on this property been becomes, cancelled at the test of the	<u>-</u> /
10. Has this property been under the ownership of the applicant for less than 3 years?	
ED DO MANAGRACIO TOLICO CONTROL CONTRO	יחבם
NY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OF OT	ALLY
ERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIA	ΔΝΥ
ALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING	150
ACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SPALLED THE THOUSAND DOLLARS AND THE STATED THE THOUSAND DOLLARS AND THE STATED THE PROPERTY OF THE PROPERTY O	₹ DF
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WILLFUL CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES SH	IWLL
GROUNDS TO RESCIND THE INSURANCE POLICY.	
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(x) Sound (held) Westden! 11/10/	
SIGNATURE OF PROPOSED INSURED PONSONSITE THE DATE	
UREDS SHALL NOTIFY THE INSURER IN WRITING OF ANY CHANGE IN THE INFORMATION CONTAINED HEREIN, UPON RENEWA	LOR
NUALLI WHICHEVER IS SOUNCE FAILURE TO COME I MAT RESSET IN RESSESSION ST. 1997, 200 1.	

### Case 1:07-cv-11034-SAS Document 14-4 STATE OF NEW YORK ANTI-ARSON APPLICATION

SIGNATURE OF PROPOSED INSURED

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## Filed 05/20/2008 Page 9 of 9

UG 126 (11-94)

(NYFA-1) PART 2 OWNERSHIP INFORMATION: List the names and addresses of: Partners, including limited partners Trustees and beneficiaries Shareholders of a corporation Note: List only those possessing an ownership interest of 25% or more, except for close corporations and beneficiaries where all owners should be listed. INTEREST % POSITION **ADDRESS** NAME 100 OWNER ST NY NY 10001 DIANA EAMTRAKUL DOUNGRAT Madate Due TWN 408 Mortgage Payments: Mortgagee List any other encumbrances: Amount Due \$ Date Due Unpaid Taxes or Unpaid Liens: Type Code Violations: Date Convictions: Date Describe Name of Person Name(s) of Unchartered Mortgagee(s): Losses: Description Date Amount Vacancy and/or unoccupancy: Indicate seasonal period (if any) when building is unused: Unoccupied Units For apartment buildings indicate: Total Units % Unoccupancy For other buildings indicate: Vacancy For all buildings indicate the following: Reason for vacancy/unoccupancy.\_ Anticipated date of occupancy: If the building is vacant or unoccupied, indicate how it is protected from unauthorized entry NO Is there a governmental order to vacate or destroy the building or has the building been classified as uninhabitable or structurally unsafe? If water, sewage, electricity or heat is out of service, explain circumstances: Is there unrepaired damage or have items been stripped from the building? If Yes, Describe: is the building for sale? If Yes, date put up for sale:\_ OTHER POLICIES: Indicate status: (In force, applied for, declined, cancelled or nonrenewed) Policy # Carrier Amount of Insurance **UNI 00210** List all real estate transactions during last 3 years involving this property. Amount of Mortgage Mortgagee Name of Seller Selling Price ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION. THE PROPOSED INSURED AFFIRMS THAT THE FOREGOING INFORMATION IS TRUE AND AGREES THAT THESE APPLICATIONS SHALL CONSTITUTE A PART OF ANY POLICY ISSUED WHETHER ATTACHED OR NOT AND THAT ANY WILLFUL CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES SHALL BE GROUNDS TO RESCIND THE INSURANCE POLICY.

## **EXHIBIT D**

# UNITED NATIONAL GROUP RENEWAL APPLICATION

			•			- 1 1 - 0	3/18/08	\$L
Policy N	o.:M520	00158	Pol	icy Term: 06/	15/07 to 0	16/15/08		
Nomad I	locured: (	.D. KOBS	ON INC		·			
			·					
			NEW YORK NY 1					
This Sho			s designed lo capture any cha neen completed for a previous				is application may or I application.	aly
1.		The second second	red's operation?	. , ,		Yes	No.	
	If so, please	e describe:	_					
•								
						· · /		
2.	If there are	any additional p	remises, please list.				No Changes	
				INTE	REST	YEAR	PART	
LOC#	BLDG#	STREET,	CITY, STATE, ZIP CODE					
<u></u>								
					<u> </u>		./.	
3.	Loss Histor	y – Please upda	te any loss information that	was not listed or	n the original appl	ication(s):	The Changes	5
		LINE	TYPE/DESCRIPTION	DATE OF	AMOUNT	AMOUNT	OEEN/CLOSE	5
DATE	OF OCC	Пі*г	OF OCCURRENCE OR CLAIM	CLAIM	PAID	RESERVED	30 %	_
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						<u> </u>	<u> </u>	

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## **RENEWAL APPLICATION**

4.	List any Property or Casualty ac	dditions or changes below.		•	VNo Changes
LOC#	CLASS CODE	CLASSIFICATIO		PREMIUM BASIS	
			•		
			,		·
LOC#	SUBJECT OF INSURANCE	E AMOUNT	COINS %	VALUATIO	N CAUSE OF LOSS
LOC#	CONSTRUCTION TYPE	PROTECTION C	ASS YEA	R BUILT	TOTAL AREA
ali state suppres omissio	olicant agrees, represents and war ements, information and document seed, omitted or misstated. Failun on or suppression, or any misrepre tion, renders coverage for any clai	ts accompanying or relating t e to fully disclose the informa esentation in the statements,	o the application ation requested in information and (	are accurate and co the application for documents accomp	implete and no facts have been insurance, whether by arrying or relating to the

\*Signing this application does not bind the applicant or the company to complete the insurance.

## **EXHIBIT E**

## Case 1:07-cv-11034-SAS

## Documentation Filed 05/20/2008

## Page 2 of 5

### ARCO INSURANCE AGENCY

68 Croft Lane Smithtown NY 11787 Phone (631) 366-2033 sales@arcoagency.com

Fax 631-366-2589 Agency Lic#: BR-620749



October 23, 2007

Insured: C.D. KOBSON INC C/O DIANA EAMTRA

Objects to mented to

7/10/10 - 19/24/22

Company: United National Specialties

Policy #: M5200158

Policy Period: JUN 15 07 To: JUN 15 08

Agency Lic#: BR-620749

Total Number of Pages: 1

Mickie Colon - Comc. Undew.

Phone: 516-488-4747 xt 3219

(516) 302-8090 Fax: Attention: Mickie Colon

Re: C.D. Kobson Inc., Pol# M5200158

Dear Mickie:

See letter & documentation just received from insured in reference to property insured by above policy, these are self explanatory, please notify insurance co. and advise ASAP of next step to follow.

Sincerely,

Cesar O. Arrascue, BROKER caz@arcoagency.com

caz

Enclosure: Insured's letter, NYC DOB **Emergency Declaration** Letters.

10/22/2007 23:19 2

2128664411

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PAGE Ø1

C.D. Kobsons, Inc. 212 West 122<sup>nd</sup> St., Suite I New York, NY 10027 Tel. 212-866-4411 Cell 1-917-447-6534

October 23, 2007

To; Arco Insurance Agency 68 Croft Lane Smithtown, NY 11787 Attn: Cesar O-Arrascue P# M 5200158.

Ref. 311 Tenth Avenue a/k/a 500 West 28th Street NY, NY 10001

Dear Mr. Cesar,

I received a letter from NYC Department of Buildings commissioner and emergency Declaration regarding the unsafe condition of the building. Our engineer will contact DOB to comply with the repairs or demolishing the building. I was advised to notify you and please notify our Insurance Carrier accordingly. Thank you for your cooperation.

Best Regards,

Doungrat Eamtrakul (Diane), President

C.D. Kobsons, Inc.

KENETTED 601 19 MB

End: - bob letter Oct, 17
- Emergency Occlaration

VIA FAX & FILST CLASS CERT. OF MARLING

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PAGE 82



NYC Department of Buildings 280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

Christopher M. Santulli, P.E. Borough Commissioner Manhattan Borough Office Phons: (212) 566-0011 Fax: (212) 566-5375 E-mail; christophera@buildings.nyc.gov

October 17, 2007

C. D. Kobsons, Inc. 212 West 122<sup>nd</sup> Street New York, NY 10027

**EMERGENCY DECLARATION** 

RE: 311 Tenth Avenue aka 500 West 28th St.

Block: 699; Lot: 37

## To Whom It May Concern:

The referenced building, or portion thereof, has been declared unsafe and in imminent peril. It must be repaired or demolished immediately. The responsibility to take such action is yours and, because of the severity of the condition, the work must begin immediately. If you fail to do so, the City will perform the commencement of remedial work. If you fail to do so, the City will perform the necessary work and seek to recover its expenses from you. You are advised to contact the Manhattan Borough Commissioner's office at (212) 566-0011 to address this issue.

Sincerely,

Christopher M. Santulli, P.E. Borough Commissioner

Manhattan

CMS/vw

cc: Fatma Amer, Deputy Commissioner & Chief Code Engineer, Tech. Affairs Michael Alacha, Assistant Commissioner of Engineering and Emergency Services Dennis Zambotti, Administrative Chief Inspector

Emergency Decl. File

Premises File

NECAL A

safety service integrity

NYC.gov/buildings

PAGE 03

EBUILDINGS	EMERGEN	CY DECLARA
10/22/2007 23:19 212866441	i Nga tao	DEAMTRAKUL.
Case 1:07-cv-11034-SAS	Document	14-6 Filed
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## **EMERGENCY DECLARATION FORM**

·	
To: Office of Operations	
From: Christopher M. Santulli, P.E., Borou	igh Commissioner, Manhattan
Subject: Immediate Emergency Declaratio	n 🔀 Emergency Declaration
Premises: 311 Tenth Avc. aka 500 West 28 <sup>th</sup> Stre Borough: Manhattan Block/Lot: 699/37 C.B: 104  Occupied Unoccupied Vacated	C. D. Kobsons, Inc.  212 West 122 <sup>nd</sup> St.  New York, NY 10027
Conditions of Structure and Recommended Remedy	<u>/:</u>
Second, third and fourth stories have sagged + or - have developed at exposure 4 (north wall), and interstories, is out of level.	4", at the center of the building. Structural cracks for partitions. The wood stair-assembly, at all
Remedy: Provide temporary shoring at the cellar at	ad first story.
Naweed Chaudhri, P.E. (on 10/15/07) and inspector 10/16/07 and requests that the condition above described sidewalk shed fence shoring, or to ensure the public safety.	ibed be made safe by 🔲 demolition 🔲 repair 🔲
Unsafe Building Information	Building Description
UB#:	Height/Stories: 40'/ 4 Stories
Issuance Date:	Construction Class: C-III
Survey Date:	Occupancy Class: Commercial/M.D.
Precept Date:	Hazardous Violation: 090507C04VP03, 04 101607C04VP04, 05
Concurred: Desirio Sant	10/17/07
Administrative Chief Im	and 10/17/-7
Borough Commissioner	D3/e OF-32 (Rev.11/03)

# **EXHIBIT F**

NOTICE OF CANCESEATION, RONRED SALASOND DOWNED CONTINUED OF THE WALL OR THE WORLD SALE OF THE WORLD SA (New York) KIND OF POLICY: United National Specialty Insurance Company AME AND . Commercial Insurance Policy Three Bala Plaza, East Suite: 300 DDRESŠ POLICY/APPLICATION/BINDER NO.: M 5200158 Bala Cynwyd PA 19004 F INSURANCE ELECTRONICALLY EFFECTIVE DATE OF NOTICE: OMPANY ENTERED 12:01 AM 11/27/07 (HOUR-STANDARD TIME AT THE AD:DRESS OF THE INSURED) (DATE) DATE OF MAILING: 10/25/07 NAME AND ADDRESS OF AGENT BROKER: C.D. Kobson Inc. c/o Diana Eamtrakul Arco Insurance 212 West 122nd Street, Apt 1 Morstan General Agency, Inc. AME AND . 68 Croft Lane New York NY 10027 P.O. Box 4500 DRESS Manhasset NY 11030-4500 Smithtown NY 11787 INSURED **LHOHDOUPITOS** IF YOU HAVE ANY QUESTIONS IN REGARD TO THIS TERMINATION, PLEASE CONTACT THIS nder Law, COMPANY'S REPRESENTATIVE AT (company phone number, name of company plies to Fire Fire and representative, company address): Marcia Clapman (516) 488-4747 Ext. 3246 tended verage Morstan General Agency, Inc. P.O. Box 4500 Manhasset NY 11030-4500 licies, Except 1en ncellation is THE NEW YORK INSURANCE LAW PROHIBITS INSURERS FROM ENGAGING IN REDLINING e to npayment of PRACTICES BASED UPON GEOGRAPHIC LOCATION OF THE RISK OR THE PRODUCER. IF emium) YOU HAVE ANY REASON TO BELIEVE THAT WE HAVE ACTED IN VIOLATION OF SUCH LAW, YOU MAY FILE YOUR COMPLAINT WITH THE DEPARTMENT EITHER ON ITS WEBSITE AT WWW.INS.STATE.NY.US/COMPLHOW.HTM OR BY WRITING TO THE STATE OF NEW YORK INSURANCE DEPARTMENT, CONSUMER SERVICE BUREAU, AT EITHER 25 BEAVER STREET, NEW YORK, NEW YORK 10004-2319 OR ONE COMMERCE PLAZA, ALBANY, NEW YORK 12257. ALSO SEE ADDITIONAL INFORMATION FOR INFORMATION ON PROCUREMENT OF INSURANCE (Applicable item marked "X") X You are hereby notified in accordance with the terms and conditions of the above mentioned policy, and in accordance with law, that your insurance will ncellation cease at and from the hour and date mentioned above. \_\_contained in this notice. If Code No. 8 applies, Reason(s) for cancellation. See stalutory reason(s) designated by Code No(s). 5E note the procedure in the Code No. 8 item if you wish to have an Insurance Department review. Reason(s)/Grounds for cancellation other than statutory reason(s) or, if required, supplementary to statutory reason(s) are given in the "Important Notices" section. If cancellation is due to nonpayment of premium, the amount of premium due is If cancellation is due to nonpayment of premium, payment of overdue premium to us, or your agent or broker will be considered timely if made within 15 days after the mailing of this notice. If payment is made, contact us or your agent or broker immediately. See the "Important Notices" section in this form for "Information on Losses" and other information that may apply. Unearned premium will be returned in accordance with New York law and the terms of the policy. , being the amount of return premium at pro rata for the unexpired term of this policy. nium istment Enclosed is \$ A bill for the premium earned to the time of cancellation will be forwarded in due course. You are hereby notified in accordance with the terms and conditions of the above mentioned policy, and in accordance with law, that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will NOT be renewed for the specific reasons(s) renewal stated in the "Important Notice" section. See the "Important Notices" section for "Information on Losses" and other information that may apply. You are hereby notified in accordance with the terms and conditions of the above mentioned policy, and in accordance with law, that the above rou are nereby nomined in accordance with the terms and conditions of the above mentioned policy, and in accordance with taw, that the above mentioned policy, which will expire effective at and from the hour and date mentioned above, will be renewed, however, the renewal will be conditioned on one or more of the following changes being made in the renewal policy (such being a change of limits, change in type of coverage, reduction of coverage, increased eductible, addition of exclusion or increased premium(s) in excess of 10 percent, exclusive of any premium increases generated as a result of increased exposure units, pursuant to law or as a result of experience rating, loss rating, retrospective rating or audit, except with respect ditioned -wal to an excess liability policy, renewal may also be conditioned upon requirements relating to underlying coverage): UNI 00203 Contact your agent, broker or this company if more specific pricing information is desired. See the "Important Notices" section in this form for specific reason(s) for conditioned renewal, "Information on Losses" and other information that

ARRADUVE

(Advance Notice of Nonrenewal or Change in Policy and Other Important Information Notices are contained on the following pages.)

Page 1 of 3

		(Also see im	portant information on the following page.)	Page 2 of
		(Соп	pany representative's name and (elephone number)	
		contact:		
		Procurement of Replacement Property (Fire) insurance: coverage, vandalism and malicious mischief, sprinkler leake effort to obtain insurance through another company in the market, you possibly may obtain such coverage through information is needed about coverage through the Association, 100 William Street, New York, New York 10038, If you have questions regarding this notice of cancellation, n	voluntary market. If you have difficulty procuring the New York Property Insurance Underwriting on, you may contact the Association directly at: No.	replacement coverage in the voluntary Association (the Association). If more w York Property Insurance Underwriting e at www.nyojua.com.
-		(Address)  Please see the additional information regarding the Con  Procurement of Replacement Property (Fire) Insurance:	. This econolision or population leading in 2 RA	icy providing life, and DOSSIDIV EXTENUEL
				or rights under this federal law
		reporting agency: (Name)		
		and description of occurrence and any payments or amount  Consumer Report: In compliance with the Fair Credit Report informed that the action taken above is being taken wholly o	the Act (Dublic Law Dt 509) and the Consumer C	redit Reform Act of 1996, you are hereb
	_x[_	Information on Losses: Upon written request from you or years specified by the Superintendent of the Insurance Depless, within 10 days of such request. Loss information cons	ists of information on closed claims, open claims a	liver loss information covering a period ge has been provided by us, whichever ind notices of occurrences, including da
				- Land
		Additional Information, if any, applying to Cancellation,	Nonrenewal, Conditioned Renewal, Changes in	Policy Terms, Conditions or Rates:
,		Onacimina		-
ant	l	X Reason(s) for cancellation, nonrenewal, condit Underwriting Reasons: Material Failure To Comply With Po	ionad rangual of change in noull'y	
of newal nge on		now applying to your current policy. A second notice will be and indicating that coverage will continue on the same ter after the second notice is mailed or delivered to you, excep your insurance, in which event such cancellation shall be o	a seril to you at a fate and a to the experimon policy unling to the extent that, prior thereto, you have replace n a pro rate premium basis.  The properties of the expension on Losses" and other additional information on Losses.	I the later of the expiration date or 60 da ad your coverage or have elected to can
ce		You are hereby advised in accordance with the terms and either not to renew the above mentioned policy, expiring the state of the state	conditions of the above mentioned policy, and in on the date indicated above, or not to renew it with	accordance with law, that it is our intent h the same terms, conditions and/or ra
ESS SURED		NEW LOWIST 1997.	P.O. Box 4500 Manhassel NY 11030-4500	Smithlown NY 11787
AND.		C.D. Kobson Inc. c/o Diana Eamtrakul 212 West 122nd Street, Apt. 1 New York NY 10027	Morstan General Agency, Inc.	Arco Insurance 68 Croft Lane
			DATE OF MAILING: 10/25/07 NAME AND ADDRESS OF AGENT	BROKER:
			11/27/07 (DATE) (H	12:01 AM Our-Standard time at the address of the insu
-MIAI	VLE	, ,	EFFECTIVE DATE OF NOTICE:	
PANY	ICE	Bala Cynwyd PA 19004	POLICY/APPLICATION/BINDER NO.: .:	M 5200158
AND. ESS SURAN		Three Bala Plaza, East Suite: 300	Commercial Insurance Policy	

KIND OF POLICY:

WE AND . DRESS INSURANCE MPANY

ME AND .

INSURED

DRESS

United National Specialty Insurance Company Three Bala Plaza, East Suite: 300

Bala Cynwyd PA 19004

C.D. Kobson Inc. c/o Diana Eamtrakul

212 West 122nd Street, Apl. 1

New York NY 10027

POLICY/APPLICATION/BINDER NO.: .: M 5200158 **FFFCTIVE DATE OF NOTICE:** 

Commercial Insurance Policy

11/27/07

12:01 AM

IHOUR-STANDARD TIME AT THE ADDRESS OF THE INSURED)

(DATE) DATE OF MAILING: 10/25/07

NAME AND ADDRESS OF AGENT Morstan General Agency, Inc.

BROKER: Arco Insurance 68 Croft Lane

P.O. Box 4500 Manhasset NY 11030-4500

Smithtown NY 11787

REASONS FOR CANCELLATION

icellation is based on one or more of the following which appear under Section 3426(c)(1), Section 3426(c)(3) and Section 3426(c)(4) on the New York Insurance Law.:

## Section 3426(c)(1)

- (A) nonpayment of premium provided however, that a notice of cancellation on this ground shall inform the insured of the amount due.
- conviction of a crime arising out of acts increasing the hazard insured against;
- discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim thereunder,
- after issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current policy period; (D)
- material physical change in the property insured, occurring after issuance or last annual renewal anniversary date of the policy, which results in the property becoming uninsurable in accordance with the insurer's objective, uniformly applied underwriting standards in effect at the time the policy was issued or last renewed; or material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;
- a determination by the superintendent that continuation of the present premium volume of the insurer would jeopardize that insurer's solvency or be hazardous to the interests of policyholders of the insurer, its creditors or the public;
- a determination by the superintendent that the continuation of the policy would violate, or would place the insurer in violation of, any provision of the Insurance Law
- the insurer has reason to believe, in good faith and with sufficient cause, that there is a probable risk or danger that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds, provided, however, that:
  - (i) the insured must act within len days if review by the Insurance Department of the ground for cancellation is desired pursuant to item (iii) of this subparagraph (H); and
  - (ii) notice of cancellation on this ground shall be provided simultaneously by the insurer to the Insurance Department; and
  - (iii) upon written request of the insured made to the Insurance Department within ten days from the insured's receipt of notice of cancellation on this ground, the Insurance Department shall undertake a review of the ground for cancellation to determine whether or not the insurer has satisfied the criteria for cancellation specified in this subparagraph; if after such review the Insurance Department finds no sufficient cause for cancellation on this ground, the notice of cancellation on this ground shall be deemed null and void.

With respect to professional liability insurance policies, in addition to the bases for cancellation set forth above in Code Nos. 1 through 8, there has been revocation or suspension of the insured's license to practice his or her profession, or if the insured is a hospital, it no longer possesses a valid operating certificate under Section 2801a of the public health law.

With respect to an excess liability policy, in addition to the bases for cancellation set forth above in Code Nos. 1 through 8, there has been cancellation of one or more of the underlying policies providing primary or intermediate coverage, where: (a) such cancellation is based upon Code Items 1 through 8 or 9; and (b) such policies are not

replaced without lapse. itional information regarding your rights under the Consumer Credit Reform Act

suant to the Consumer Credit Reform Act of 1996, effective September 30, 1997, you are informed that:

consumer reporting agency identified on this form did not make any decisions regarding the stated insurance policy. Therefore, the consumer reporting ncy would not be able to provide you with the specific reasons why the insurance company is taking the present action.

have the right to obtain within 60 days of the receipt of this notice a free copy of your credit report from the consumer reporting agency which has been lified on this form. (Prior to September 30, 1997, you have the right to obtain a free copy of your credit report within 30 days of the receipt of this notice.)

have the right to dispute inaccurate information by contacting the consumer reporting agency directly. Once you have directly notified the consumer rling agency of your dispute, the agency must, within a reasonable period of time reinvestigate and record the current status of the disputed information. If reinvestigation, such information is found to be inaccurate or unverifiable, such information must be promptly deleted from your records. If the restigation does not resolve the dispute, you may file a brief statement setting forth the nature of the dispute with the consumer reporting agency. Your statement will then be included or summarized in any subsequent consumer report containing the information in question.

complete information regarding the Federal Consumer Credit Protection Law please refer to The Code of the Laws of the United States of America, Title Chapter 41, Subchapter III, (15 U.S.C. §1681 et seq.).

NUTHORIZED REPRESENTATIVE

Page 3 of 3

INSURED'S COPY

**UNI 00205** 

**EXHIBIT G** 

# **ARCO** INSURANCE AGENCY

Fax: 631-366-2589 Ph: 631-366-2033

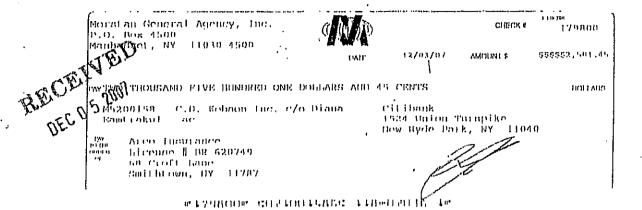
fax	Date: 01/22	
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TO: Janett	or: Mor	stan
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Tel:	OBSON "M52	2.00158"
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of by the com	oun of \$2,777.	55 Suvilled to
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Any questions,	please call me	
Regards. Catar		
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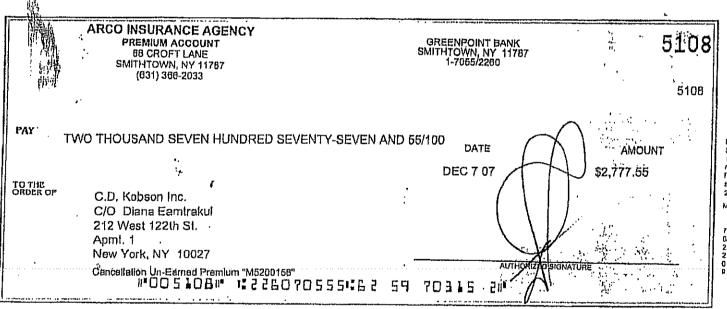
Jan 22 08 05:06p

Cesar O. Arrascue

631-366-2589

p.2





Jan 22 08 05:07p

Cesar D. Arrascue

631-366-2589

р.3

C.D. Kobsons, Inc. 212 West 122<sup>nd</sup> St., Suite #1 New York, NY 10027 Tel: 212-866-4411

December 13, 2007

To: Arco Insurance Agency 68 Croft Lane Smithtown N.Y. 11787

Ref: United National Specialty Insurance Company Return a refund check-for-policy: 145 200158 500 West 28th St a/k/a 311 Tenth Avenue, NY, NY 10001

To Arco Insurance Agency:

We are hereby returning your check number 5180 in an amount of \$2,777.55 due to the cancellation and refund from the United National Specialty Company. Since we have a legal pending with the United National Specialty Company we are unable to accept your checks until we have the court decision.

Regards,

Doungrat Earntrakul, Managing Agent

C.D. Kobsons, Inc.

RECEIVED

# **EXHIBIT H**

Zip code

Mailing address

## NOTICE OF VIOLATION AND HEARING

COMMISSIONER OF THE DEPARTMENT OF BUILDINGS

Number and street

Resolution options

CURE (LL12)

"Notice of Violation and Hearing".

Violation No. 34489984J

OF THE CITY OF N	EW YORK, PETITIONER, AGAINST	ENVIRONM	ENTAL CONTROL BOARD	
Respondent	First name (or entity name)  C. D KOPSONS	S INC.	Last name	*1
Check if same address as place of occurrence)	Number and street  212 W 122 57	apt IR	NEW YORK	Stale Zip code 10027
Additional mailing to b	e sent (agent, care of, other):	Last name	Сотралу	

## Commissioner's Order To Correct Violations

Place of occurrence	IUE	 Boro	Date of violation 09 129105	Туро	OH AA	04
Construction type	No. of stories	 <sup>™</sup> 37	Occupancy at time of insi M.D. Com no		Basis of violation	3

Based upon the inspection of the premises and/or records of the Department, the undersigned has determined that you are in violation of the sections of law

cited below, of I	Itle 26 and/or 27 t	or the NYC Administrative Code, and the Zurun	y rassulukuli.	
Computer No.	Provision of law	Violating conditions observed	☐ Hazardous	Second offense Prior ECB violation #
OTA	27 107	PAILURE TO MAIN	ITAIN Z	NTERIOR BUILDING
B7A	27-127	WALL, DEFECTS N	10750:01	SKTICAC CLACK, O)
				lumn, FROM NORTH,
	·	AT EAST, CELLAR	AT A	PPROX. 6'-0"LONG K
				MISSING BRICKS
THROU	GHOUT	COLUMN.		
- <b> </b>				
NOTE:	BRICK	's COLYMA USED I	OR SUP.	PORTING, STRUCTURE,
God B	com.			· •
Remedy:	MAKE	ALL NECESSARY	REPAIR	FORTHWITH
26-12	6.1 (e)(i) Per day	penalty for violation of section 27-118.1 x	units added.	
The Con	missioner of the	Department of Buildings orders that you	correct these cond	itions and file a certificate of such correction.

DATE TAZ		e Department or IF YOU ARE CHARGED WITH A HAZARDOUS OR SECOND LATION, YOU ARE REQUIRED TO APPEAR FOR A HEARING AT THE
At the hearing, you have the option to	ENAIBONWEN	TAL CONTROL BOARD (ECB) ON:
contest or admit the violation. If a		
"cure date" appears in the box above,	Hearing date	// //7 /05 at 2 10:30 AM 1:30 PM 1:00 Other
you have the additional option to admit		<u> </u>
the violation and certify correction by	Environmental Co	ntrol Board hearing locations:
the cure date, resulting in a finding of	☐ Queens,	(718) 298-7300 - 144-06 94th Avenue, 1st fl.
"in violation," but no hearing or penalty.	Manhattan,	(212) 361-1400 - 66 John Street, 10th II.
Also, depending on the type of viola-	□ Breaklyn,	(718) 875-7428 - 233 Schermerhorn Street, 11th II.
tion, you may be eligible to accept a	☐ Bronx,	(718) 579-6844 - 1932 Arthur Avenue, 6th ft

C Bronx, (718) 579-6844 - 1932 Arthur Avenue, 6th fl stipulation. For more information, see ☐ Staten Island, (212) 361-1400 - 350 St. Marks Place, 1st fl. reverse side of the yellow copy of the

Proceedings will be held under authority of the NYC Charter section 1404 and rules promulgated thereunder at 15 RCNY Chapter 31. This hearing is your opportunity to answer and defend against the allogations set forth above. If you do not appear, you will be held in default and subjected to maximum penalties.

Hearing Information

If the Certificate of Correction (for a "cure") is not received by the date indicated to the left or is not

For more information. To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call the Department of Buildings at 311, or go to www.nyc.gav/bulldings.

issuing efficer's tast name, first initial (print)	I personally observed the violation(s) charged and/or videpartmental records.  Issuing officer's signature  This et stemper is allowed upday consists of feature.	,
Badge number Unit Code	This statement is affirmed under penalty of pedury.	34489984J
Supervisor's signature		ECB-PC (Rev. 10/04)

certification will serve to authenticate this decument as a true and accurate the Repartment to make records of this type, and the reco e events, recorded. Record was made in the regular course of biologies of it

COLLA UP

# BUILDINGS

## NOTICE OF VIOLATION AND HEARING

COMMISSIONER OF THE DEPARTMENT OF BUILDINGS

Violation No. 34477119R

OF THE CITY	OF NEW YOR			AINST					ENVIRON	MENTAL	. CON	TROL BOARD
Respondent		e (or entity a	rame). KD(e	SON!	S IN	رد	Lest name	:	_	. به		
Mailing ad (Cliack if same a as place of occur	address -	and street	W	2220	5},		Ne	w U	rek	SI V	Ψ,	Zip code
Additional mail	ling to be sent (ag		il, other):	· .				1			1	
Name	First nam				Last name		T		Сотралу			
Mailing addre	ss. Number a	ina steat			<del></del>		City	<del></del>		Si	ate	Zip code
			Commi	ssioner's	Order To	o Coi	rrect Vi	lolatio	ns		+	
Place of occi	urrence U	A2	L.		March	0		106	Тура	Dist.	Gode AL	A 3
Construction type	IIc	No. of	Slories E	699	37	5/2	re C	time of ins	ipecilon .	Basis n	violation 5	355
Based upon the cited below, of T	inspection of the lite 26 and/or 27 o	premises a of the NYC	ind/or record Administrat	is of the Depi ive Code, and	artment, the u I the Zoning A	ndersigi lesolutio	ned has de in.	termined	that you are	in violatic	n of the	e sections of law
Compuler No.	Provision of law	Violal	ing cond	itions obs	erved	□ Haz	ardous		ond offense CB violation			
B <b>6</b> 6	27-127	Luc	lux	Lo proc	cein tex	en ,	Her	ioa.	wall	<u>. D</u>	ela	Ain
	, ,	E	utive	e/fe	ust 1	لستهور	225	he	o CAG	ick.	J 2	and one
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Remedy:	IVER.	2 <u>. C</u>	<u> </u>	i pico	res . s	<u></u>	<u> </u>	50	le +	,Xæ	au	uf
<del></del>	Manne											
26-126	5.1 (e)(i) Per day	genalty for	violation of	section 27-11	IR 1 x	units	added.			<del>-</del>		
	missioner of the				***			itions an	d file a cert	ficate of	such o	correction.
	·			****								
Resc	olution option	5				Hea	aring inf	ormatic	on .			
At the hearing,	721 0 6 1	ption to	approved OFFENS	' by ще Dep E VIÓLATIO	orrection (for artment or IF N, YOU ARE ONTROL BO	YOU /	ARE CHA JIRED TO	AGED V APPEA	VITH A HAZ	ZARDOL	IS OR	he left or is not SECOND HE
"cure date" app	it the violation, I sears in the box	above,	Hearing	date 0	2123	106	at 🖅	4 <del>0:3</del> 0 A	M □ 1:30	PM 🗆	Othe	r
	dditional option Id certily correct		Environme	ntal Control B	aard hearing l	locations	 5:					
	resulting in a fin ut no hearing or		☐ Queens.	(718)	298-7300 - 14	4-06 94	ih Avenue,					,
	g on the type of		☐ Brookly		361-1400 <b>-</b> 66 875-7428 - 23				h ff.			
	e eligible to acc		☐ Bronx,	(718)	<b>579-6844 - 1</b> 9	32 Arth	ur Avenue,	6lh ()				
	more information the yellow copy				361-1400 - 35							
	illion and Hearing	-	abova, If yo	ihapter 31. Th u do not appi	is hearing is y ear, you will be	your app	ortunity to default an	enswer a od subject	ind delend a: ed to maxim	gainst the um penalt	allegat les.	
For more inform nformation on ce vww.nyc.gov/buil	nation. To resched ertifying correction idings.	iule your hi ei this viol	earing or Inc ation, read i	juire about th nstructions o	o case status, n the Certifica	call the le of Co	Environme rrection for	ental Cont m, call th	trol Board at e Departmer	the numb It of Build	ers liste Ings al	ed above. For 311, or go to
	st name, first initia	sf(print)		l personally department	observed the	violand	n(s) charg	ed and/or	venilled thel	existenc	e throug	gh review of

was made after about the same time is certification will, serve to authenticate this document as a true and accurate his record was made in the regular course of business of the the Exparament to make records of this type; and the record

Supervisor's signature 1

Issuing cilicer's signature

This statement is affirmed under penalty of perjury.

34477119R

# ENT OF BUILDINGS

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was made at or thought the same time of observers of the regarding of the performant to make records of this type, and the record ruisuant to CPER 42 (8(ch. this certification will serve to authenticate this document as a true and accurate of a record of the Department of Buildings. This record was made in the regular course of business of the This record was made in the regular course of business of it-

BUILD	INGS
COMMISSIONER OF	THE DEPARTME

Issuing Afficer's Ipst name, first Initial (print)

Supervisor's signature

Unit Code

NOTICE OF MICHAEL THE THE THE	
NOTICE OF VIOLATION AND HEARING	

Flacepondent   C	OF THE CITY OF NEW YORK, PETI				ENVIR	ONMENT	AL CONT	ROL BOARD
Melling address   Number and stress   Ze code	Respondent		TAC	Last name			*	
Name	Malling address Number and street (Chack if same address		+ ALIR	City	N Yor	k	State W.Y.	Zip code
Name   Number and street   City   State   Zip code	Additional mailing to be sent (agent, care	of, other):					·}	
Commissioner's Order To Correct Violations  Place of occurrence    Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of occurrence   Place of the premises and/or records of the Department, the undersigned has determined the four is invisible of the sections of the place of the premises and/or records of the Department, the undersigned has determined the four is invisible of the sections of the place of the provision	Name First name		ast name		Compa	ny		
Place of occurrence of the Constitution type   Date of violation   Type   D	Mailing address Number and street	1		City		***	State	Zip code
Construction type		Commissioner's (	Order To Co	rrect Vic	olations		•	
Based upon the Inspection of the premises and/or records of the Department, the undersigned has determined the Jou are in violation of the sections of low cited below, of Title 28 and/or 27 of the NYC Administrative Code, and the Zoning Resolution.  Computer Provision of law Violating conditions observed Hazardous Prior ECB violation #  BTA 7-107 Lawry to Mannature Based Upon the CBB violation #  BTA 7-107 Lawry to Mannature Based Upon the CBB violation #  Barry Hazardous Prior ECB violation #  Barry Hazardous Prior ECB violation #  Barry Hazardous Defect on the Samphanust Canada Administrative Canada Adminis	Place of occurrence 3/1 /D 4	رو اً ا			1	Dist.	Code AL	No.
Based upon the inspection of the premises and/or records of the Department, the undersigned has determined that you are in violation of the sections of law cited below, of Title 28 and/or 27 of the NYC Administrative Code, and the Zoning Resolution.  Computer Provision Violating conditions observed Hazardous Prior ECB violation #  BTA 7-107 Advisor to Mainth the Mainth Security Defection  Standing Additional Defections  Standing Conditions observed Hazardous Prior ECB violation #  BTA 7-107 Advisor to Mainth Security Defection  Standing Conditions observed Prior ECB violation #  BTA 7-107 Advisor to Mainth Security Defection  Standing Conditions observed Prior ECB violation #  BTA 7-107 Advisor to Mainth Security Defection #  Standing Conditions observed Prior ECB violation #  BTA 7-107 Advisor to Mainth Security Defection #  Standing Conditions Defection #  Standing Conditions Prior ECB violation #  Standing Conditions Defection #  Standing Conditions Prior ECB violation #  Standing Conditions Prior ECB violation #  BTA 7-107 Advisor to Mainth Security Defection #  Standing Conditions Prior ECB violation #  Standing Conditions Prior ECB violation #  Standing Conditions Prior ECB violation #  Security Defection #  Standing Conditions Prior ECB violation #  BTA 7-107 Advisor ECB violation #  Security Defection #  Security	Construction type No. c		37 0	ccupancy at t	me of inspection			ō <u> </u>
Remedy: File + obstains per factor from building and appropriate of such correction.  Resolution options  CURE Hogy January  If the Certificate of Correction (for a "cure") is not received by the date indicated to the left or is not approved by the Department or if YOU ARE CHARGED WITH A HAZARDOUS OR SECOND OFFENSE VIOLATION, YOU ARE REQUIRED TO APPEAR FOR A HEARING AT THE ENVIRONMENTAL CONTROL BOARD (ECB) ON:  Hearing date Office of the Doard of the boardow.  Hearing date Office of a such contest or admit the violation. If a "cure date" appears in the box above.	Based upon the inspection of the premises cited below, of Title 25 and/or 27 of the NY	and/or records of the Departs	nent, the undersign e Zoning Resolution	ned has dete in,	ermined that you			
Remedy: file + ototains per to a regain building in a Safel    Counter   Counter   Counter   Counter		ating conditions obser	ved   Haz	ardous				
Remedy: file + obtains perf and regain building in a Sofile  - (Surful manner.  26-126.1 (e)(i) Per day penalty for violation of section 27-118.1 x units added.  The Commissioner of the Department of Buildings orders that you correct these conditions and file a certificate of such correction.  Resolution options  Hearing information  CURE At the hearing, you have the option to contest or admit the violation. If a "cure" admit the violation. If a "cure date" appears in the box above,  Hearing date O A 2 3 / O ( at \$40.30 AM () 1:30 PM () Other	B1A 27-127 A	ailing to 1	iain tair	n bree	ilding	De	lect.	in
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CURE DATE  If the Certificate of Correction (for a "cure") is not received by the date indicated to the left or is not approved by the Department or iF YOU ARE CHARGED WITH A HAZARDOUS OR SECOND OFFENSE VIOLATION, YOU ARE REQUIRED TO APPEAR FOR A HEARING AT THE ENVIRONMENTAL CONTROL BOARD (ECB) ON:  Hearing date  Oh 73 / O (at 2510:30 AM 1:30 PM 1:							,,,,,,	
At the hearing, you have the option to contest or admit the violation. If a "cure date" appears in the box above,							·	
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the violation and certify correction by Environmental Control Board hearing locations:		Environmental Control Board	d hearing locations	<b>-</b> :				
the cure date, resulting in a finding of Queens, (718) 298-7300 - 144-06 94th Avenue, 1st II.		Queens, (718) 298	-7300 - 144-06 94t	h Avenue, 1				
Also, depending on the type of viola-		1 1 1 1						İ
tion, you may be eligible to accept a 🔲 Bronx. (718) 579-6844 - 1932 Arthur Avenue, 6th II		□ Bronx, (718) 579	-6844 - 1932 Arthu	ır Avenue, 61	th fl			
slipulation. For more information, see reverse side of the yellow copy of the								
"Notice of Violation and Hearing".  15 RCNY Chapter 31. This hearing is your opportunity to answer and defend against the allegations set forth above. If you do not appear, you will be held in default and subjected to maximum penalties.	"Notice of Violation and Hearing".	above. If you do not appear,	you will be held in	ortunity to a: default and	nswer and delen subjected to ma	ıd against ti ximum pen	he allegatio alties.	ens set forth
For more Information. To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call the Department of Buildings at 311, or go to www.nyc.gov/buildings.	MINISTER OF COLUMNING CONCENTRAL OF THE AND	garing or inquire about the ca	so slatue, call the	Emdranman	al Castel Cast			above. For 11, or go to

departmental records.

Issuing officer's signature

This statement is affirmed under penalty of perjury.

34477118P FCB-PC (Rev. 10/04)

I personally observed the violation(s) charged and/or verified their existence through review of

core of a record of the Departmen of Buildings. The Purvision to CPLR 45181ch, this certification we

the Department to make records of this type, and the record

)似 Designated Certifying Officer.

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ECS-PC (Rev. 10/04)

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COMMISSIONER OF OF THE CITY OF NE	THE DEPART W YORK, PETI	MENT OF BUIL	DINGS NST	10	784	65				1504660
	First name (or entit	y name)			.,	Last nam	6	VIROIVIE	TIAL CONT	ROL BOARI
Respondent		_ <i>D</i>	MO	Son		100	<u>,                                    </u>		-	
(Check if same address	Number and street	./ 12.0		_		City		122	State	Zip code
(as place of occurrence)	2/2	61722	57	-4T	TR.		V. Y		NY	10027
Additional mailing to be		of, other):		•			/		4	
Name	First name			Last name		<del></del> .	Con	прапу		<u> </u>
Mailing address	Number and street					City			State	Zip code
		Commiss	ioner's	Order	Го Со	rrect V	iolations			<u>L </u>
Place of occurrence				Born		of violation	Тург		st. Gode	Na.
Construction type	/0 /	TVE_ of stories   Block		M	01	16	I lime of inspects	57	F-MS	. 03
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19 10 H	بهبك	Issu	ng officer's	signature _ is affirmed :			All 8			

ORIGINAL - ECB COPY

Place of occurrence

NTY OF NY 1518(c).

Pursuant to CPLR 4518(c).

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Document 14-9

Filed 05/20/2008

Page 6 of 16

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Code

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## NOTICE OF VIOLATION AND HEARING

Violation No. 34508673N COMMISSIONER OF THE DEPARTMENT OF BUILDINGS OF THE CITY OF NEW YORK, PETITIONER, AGAINST ENVIRONMENTAL CONTROL BOARD First name (or entity name) Lasi cama Respondent State Zip code ☐ Malling address Number and street City (Check if same address as place of occurrence) Additional mailing to be sent (agent, care of, other): Last name First name Name State Zip code City Number and atreet Mailing address

### **Commissioner's Order To Correct Violations**

Boro

Date of violation

OCIOILOR

311	O 7	/E		M	106/01	100	- PITH	PI	05
Construction type		No. of stories	Block	Lot	1	ima al inspectio) مسيم سب	n Basin of s	اصد	JSW
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Based upon the inspec cited below, of Title 26	tion of the prem and/or 27 of the	ises and/or rec NYC Administ	ords of the Dépa rative Code, and	rtment, the un the Zoning Ro	dereignad has del esclution.	ermined that y	eu ara in violalio	n of the sec	tions of law
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26-126.1 (e)	(i) Per day pen	ally for violation	ol section 27-11	18.1 x	_ units added.				
The Commission	oner of the De	partment of B	luiidings orders	that you co	rect these cond	itions and file	a certificate o	f such com	ection.

			1,1
CURE HAZAGOODS	approved by the OFFENSE VIOL	e of Correction (for a "cure") is not received by the date a Department or IF YOU ARE CHARGED WITH A HAZ LATION, YOU ARE REQUIRED TO APPEAR FOR A F TAL CONTROL BOARD (ECB) ON:	ZARDOUS OR SECOND
At the hearing, you have the option to contest or admit the violation. If a "cure date" appears in the box above,		07/20/06 at \$10:30 AM [] 1:3	DPM Other
the violation and cartify correction by	Environmental Co	ntrol Board hearing locations:	
the cure date, resulting in a finding of "in violation," but no hearing or penalty.	Danhattan,	(718) 298-7300 - 144-06 94th Avenue, 1st II. (212) 361-1400 - 66 John Street, 10th II.	
tion, you may be eligible to accept a	☐ Bronx,	(718) 675-7428 - 233 Schermerham Street, 11th fl. (718) 579-6844 - 1932 Arthur Avenue, 6th fl	
stipulation. For more information, see reverse side of the "Notice of Violation and Hearing".	Proceedings will b	(212) 361-1400 - 350 St. Marks Place, 1st fl. be held under authority of the NYC Charter section 1404 and r 31. This hearing is your opportunity to enswer and defend a of appear, you will be held in default and subjected to maxim	gainst the allegations set forth
		bout the case status, call the Environmental Control Board al flons on the Certificate of Correction form, call the Departme	

www.nyc.gov/buildings. Supervisor's signature

Resolution options

I personally observed the violation(s) charged and/or verified their existence through review of departmental records.

Hearing information

Issuing officer's signature This statement is affirmed under penalty of

34508673N

ECB-PC (Rev. 10/04)

COMMISSION	ER OF THE DE	EPARTMEN	IT OF	BUILDING		ULAIIL	, MA MI	ID DEM	. )	Violati ENVIRONI				
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For more information. To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call the Department of Buildings at 311, or go to Issuing officer's last name, first Initial (print) Supervisor's signature

vecord was made in the regular course of business of Department to make records of this type, and the for

Designated Certifying Officer.

I personally observed the violation(s) clyarged-and/or verified their existence through review of departmental records.

Issuing officer's signature This statement is affirmed under penalty of perfury.

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ECB-PC (Rev. 10/04)

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🔲 1932 Arthur Avenue

61h Floor Bronx, NY 10457 718-579-6844 212-36 (-1400

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0/7

A Notice of Violation was duly served on the Respondent charging that on \_\_\_\_\_\_ a provision or Rule of the Building/Fire Code.

C Administrative Code § \_\_\_\_ 7 - / \_\_\_ 7 \_\_\_ a provision or Rule of the Building/Fire Code.

Petitioner has acknowledged that Respondent admitted the violation and has certified correction.

The Parties desire to settle by stipulation, without further hearing, and respondent admits to the violation.

HEARING: Respondent appeared and entered a plea of: \_\_\_\_ Admit \_\_\_\_ Admit with Explanation \_\_\_\_\_ Deny, and a hearing was held before me on the above-cited date. , the Respondent violated the On the record before me, and upon the further findings and reasons stated below, I find as to each violation charged and order payment of tor Exhibiti ADMISSION: I admit the above-described violation Dala Signatur STIPULATION ACCEPTED AT HEARING: Signature for Respondent Signature for Petiti Capacit م..ر Date Mailed See back of this order for instructions. **PAYMENT DUE WITHIN 10 DAYS** READ BACK OF THIS ORDER - PROTECT YOUR RIGHTS

NoV 344 899 84J, 345 046 59Z, 345 046 60X, 345 086 72L Hearing: 11/16/06

Petitioner was represented by Mr. Casciano. Respondent was represented by Mr. McAllister. Ms Eamtrakul, president of the respondent corporation also appeared.

The four NoV's describe structural defects in the basement walls and supporting structures, and crumbling lintels, missing mortar, and delamination of masonry on the exterior façade. A failure to maintain is charged under 27-127 of the NYC Administrative Code in each NoV issued September 29, 2005, January 26, 2006, and June 1, 2006.

Respondent requested an adjournment for the issuing officer and for more time to obtain a decision from petitioner's Borough Commissioner with regard to a possible order to vacate the subject premises. The request was denied. I determined that the issuing inspectors were not require because the facts described on the NoV's were not being challenged by the respondent's central claim. Second, further delay for the possibility of a vacate order was also unnecessary because the issuance of the Borough Commissioner's decision is not relevant to a determination of respondent's legal responsibilities prior to its issuance. Respondent was unable to show how such a decision could have retroactive effect.

Respondent challenged the mail portion of service of the NoV's claiming that the mailings were never received. This claim does not apply to two to the NoV's (345 046 59Z & 345 046 60X) because they were served on the Secretary of State. ECB computer records indicate that mailings for the other two NoV's were addressed to the appropriate location for respondent. Hence, respondent's motion to dismiss on this basis is denied.

In defense on the merits respondent claims the structural problems are more severe than those described by the NoV's and that the removal of all tenants is necessary to facilitate repairs or demolition and reconstruction. Respondent claims to have become aware of the serious nature of the problems in the summer of 2005 when Dubinsky Consulting Engineers, PC were retained. Dubinsky issued a report dated 9/7/06. (See Resp's exhib 1). Respondent then sought advice from an architecture firm. AENA.(Resp Exhib 3), a contractor (Resp Exhib 4) on how to proceed. These reports indicate that the building requires such extensive repairs that it would require that the four residential and the one commercial tenant vacate the building. The reports also indicate that repairs would likely be so expensive that it would be cheaper to build a new building. A second report from

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Department to make records of

AENA dated April 21, 2006, however, states that the extent of the structural damage cannot as yet be determined without removal of flooring.

Respondent also sought the assistance from petitioner by asking petitioner to order that the building be vacated. Petitioner responded to this request on 3/13/06 and instructed that cracks be monitored and reports filed with the Department. (Resp Exhib 5). The 3/13/06 letter also states that the Department "may decide to vacate the building...." Depending on the results of the monitoring. Respondent complied and filed the required periodic monitoring reports (Resp Exhib 6). No decision has been forthcoming form petitioner to date.

Respondent asserts that it had taken all reasonable steps to maintain the building by retaining professional help and then relying on the petitioner's monitoring program.

I find that respondent has taken no corrective action to safeguard the building occupants or general public, e.g. there is no evidence of the creetion of a sidewalk shed. In addition, one of Respondent's professional reports indicates that the extent of the structural damage is unknown. Nevertheless no corrective action was taken to correct the problems that were known in the basement and on the façade. Nor does petitioner's monitoring program relieve respondent from taking some corrective action for the problems that were known. Accordingly, I find that respondent has in fact failed to take reasonable steps to maintain the building.

Finally, respondent argues that two of the NoV's (345 046 59Z & 345 046 60X) are duplicative because they were issued on the same day under the same charge. In spite of the fact that the NoV's describe different conditions, exterior façade conditions and interior structural support problems in the basement, I agree that the two charges and violations are duplicative and dismiss 345 046 59Z.

The three other NoV's, 344 899 84J, 345 046 60X, and 345 086 72L, are sustained. The third violation. NoV 345 086 72L, is charged as a second violation based on the finding of a violation for NoV 345 046 60X. Accordingly, a Board approved second offense penalty is imposed for this one violation and the standard first offense Board approved penalty is imposed for the other two.

Scott Kegelman, ALJ 119

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Designated Certifying Online

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Page 1 of 1 of 16





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## NYC Department of Buildings **ECB Violation Details**

Premises: 311 10 AVENUE MANHATTAN

ECB Viol Number: 34489984J

VIOL ACTIVE

BIN: 1078405 Block: 699 Lot: 37

Status: OVERDUE COMPL

Filed At:

311 10 AVENUE, MAN, NY 10001

Block: 699 Lot: 37

9

Respondent Info:

CB:

104 GEO Flag:

C.D. KOPSONS INC. . 212 WEST 122 STREET , NY , NY 10027

09/29/2005

Viol Issue Date: Viol Type:

DOB Viol Number:

092905C04AA04

Issuing Insp ID:

CN - CONSTRUCTION

Tax Lien Serv:

NO

Device Type:

Device Number:

**Delivered Date:** 

1078405

Hearing Time:

9:00

Location:

Sched Hrg Date: Amount Imposed: 11/16/2006 \$800.00

09/29/2005

**Amount Paid:** 

\$800.00

Hearing Status:

V - IN VIOLATION

Compl Status: Compl Met Flag: O - OVERDUE COMPL

Compl By Date:

01/04/2007

Viol Severity:

A - HIGH

Compi Met Date: Infraction Codes:

B7A 27-127 FAILURE TO MAINTAIN BUILDING - HAZARDOUS

Description of Violation:

FAILURE TO MAINTAIN INTERIOR BUILDING WALL. DEFECT NOTED: VERTICAL CRA CK @ 3RD MASONRY BRICK COLUMN FROM NORTH AT EAST CELLAR AT APPROX 6'-D "LONG X 1" WIDE. (2) ALSO NOTED MISSING BRICKS THROUGHOUT COLUMN. NOT

Historical Event Dates:

CUR:

HRG:

COM: 12/05/2006

DEF:

STIP ACC:

AJR:

ASG:

WRI: 11/16/2006

Cominsp:

Comdoc:





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## NYC Department of Buildings **ECB Violation Details**

BIN: 1078405 Block: 699 Lot: 37 Premises: 311 10 AVENUE MANHATTAN Status: OVERDUE COMPL VIOL ACTIVE

Block: 699 Lot: 37 311 10 AVENUE, MAN, NY 10001 Filed At:

104 CB: Respondent Info:

EAMTRAKUL . 212 W 122ND ST , NEW YORK , NY 10027 GEO Flag: Delivered Date: 01/09/2006

Viol Issue Date: 01/04/2006 CN - CONSTRUCTION 010406C4ALA1 DOB Viol Number: Viol Type:

NO Tax Lien Serv: Issuing Insp ID: Device Number: 1078405 Device Type:

Location: Hearing Time: 8:30 04/13/2006 Sched-Hrg Date:

Amount Paid: \$800.00 Amount Imposed: \$800.00 O - OVERDUE COMPL

Compl Status: V - IN VIOLATION Hearing Status: Compl Met Flag:

Compl By Date: 04/29/2006 A - HIGH Viol Severity:

Compl Met Date: Infraction Codes:

B7A 27-127 FAILURE TO MAINTAIN BUILDING - HAZARDOUS

Description of Violation:

ECB Viol Number: 34477118P

FAILURE TO MAINTAIN BUILDING DEFECT IS STAIRS WITH HALLWAY LANDINGS AN D APARTMENT FLOORS THROUGHOUT FROM 1ST FLOOR TO 3RD FLOOR ARE SAGGING AND. REMEDY: FILE AND OBTAIN PERMIT/AND REPAIR BUILDING IN A SAFE AND

**Historical Event Dates:** 

STIP ACC: DEF: 06/06/2006 COM: CUR: HRG: Comdoc: 02/23/2006 04/13/2006 WRI: Cominsp: AJR: ASG:





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### NYC Department of Buildings **ECB Violation Details**

Premises: 311 10 AVENUE MANHATTAN

ECB Viol Number: 34504660X

VIOL ACTIVE

BIN: 1078405 Block: 699 Lot: 37

Status: OVERDUE COMPL

Filed At:

311 10 AVENUE, MAN, NY 10001

Block: 699 Lot: 37

Respondent Info:

CB:

104

9

C D KOBSONS INC. 212 WEST 122 STREET, NY, NY 10027

GEO Flag:

Viol Issue Date:

01/26/2006

**Delivered Date:** 

02/17/2006

Viol Type:

CN - CONSTRUCTION

DOB Viol Number:

012606CSTFMS03

Issuing Insp ID:

1904

Tax Lien Serv:

NO

Device Number:

1078405

Device Type: Sched Hrg Date:

11/16/2006

Hearing Time:

9:00

Location:

Amount Imposed:

\$800.00

Amount Paid:

\$0.00

Hearing Status:

V - IN VIOLATION

Compl Status: Compl Met Flag: O - OVERDUE COMPL

Compl By Date:

01/03/2007

Viol Severity:

A - HIGH

Compl Met Date: Infraction Codes:

B6A 27-127 FAILURE TO MAINTAIN EXTERIOR BUILDING WALL (HAZARDOUS)

Description of Violation:

FAILURE TO MAINTAIN (EXT) BLDG WALL. NOTE: (1) MASONRY BROWNSTON WINDO W LENTELS ON NORTH FACADE CRUMBLING & IN DISREPAIR. (2) MORTAR MISSING FROM BRICKS NEAR ROOF LEVEL ON NORTH FACADE. REMEDY: MAINTAIN BLDG.

Historical Event Dates:

CUR:

HRG:

12/04/2006 COM: DEF:

STIP ACC:

AJR:

08/31/2006 ASG: 11/16/2006 WRI: Cominsp:

Comdoc:





CLICK HERE TO SIGN UP FOR BUILDINGS NEWS

BIN: 1078405 Block: 699 Lot: 37

## NYC Department of Buildings **ECB Violation Details**

Premises: 311 10 AVENUE MANHATTAN

Status: OVERDUE COMPL **VIOL ACTIVE** 

Lot:

37

ECB Viol Number: 34508672L

Block: 699 311 10 AVENUE, MAN, NY 10001 Filed At: CB: 104

Respondent Info: GEO Flag: C.D. KOBSONS, INC . 212 WEST 122 STREET , NY , NY 10027

06/01/2006 Delivered Date: 06/01/2006 Viol Issue Date:

060106CSTFPI04 DOB Viol Number: CN - CONSTRUCTION Viol Type: NO Tax Lien Serv: 1949 Issuing Insp ID:

1078405 Device Number: Device Type: 9 Location: 10:30 Hearing Time:

11/16/2006 Sched Hrg Date: \$0.00 Amount Paid: \$2,000.00 Amount Imposed:

O - OVERDUE COMPL Compl Status: V - IN VIOLATION Hearing Status:

Compl Met Flag: 10/08/2006 Compl By Date: A - HIGH Viol Severity: 08/01/2006 Comp! Met Date:

Infraction Codes: B6A 27-127 FAILURE TO MAINTAIN EXTERIOR BUILDING WALL (HAZARDOUS)

Description of Violation: NOTED: NORTH ELEVATION BROWNSTONE MASONRY DELAMINING CREATING A HAZARD OUS CONDITION. REMEDY:PROVIDE PROTECTION TO PUBLIC & PROPERTY, REPAIR/ REPLACE AS REQUIRED OBTAIN ALL NECESSARY PERMITS.

Historical Event Dates:

STIP ACC: DEF: 12/04/2006 COM: CUR: HRG: Comdoc: Cominsp: AJR: 11/16/2006 WRI: ASG:

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## **Building Registration Summary Report**

Owner	Last Reg Ot	Organization	Lost Nm	First Nm	House No	Street Nm	Apt	City	State	ZIp
Head Officer	2007/04/13		EAMTRAKUL	, Doungrat	212	W 122ND ST	1	MY	NY	10027
Officer	2007/04/13		SEREGIO	BARRERA	1377	BRISTOW ST	1	BRONX	NY	10459
Corporation	2007/04/13	C D KOBSONS			212	W 122ND ST	1	NY	NY	10027
Managing Agent	2007/04/13	C D KOBSONS INC	EÄMTRAKUL	DOUNGRAT	212	W 122ND ST	1	NY	NY	10027
Emerg. Contact	2007/04/13	•	SERGIO	BARRERA			. <u>.</u>			
Emerg. Contact	2007/04/13		EAMTRAKUL	DOUNGRAT					· 	

Open Violations - ALL DATES

There are 12 Violations, Arranged by category: A class: 3 B class: 7 C class: 2 I class: 0

For Definitions of the columns Indicated below, select glossary under the Services option (located at the upper right).
To sort the columns, click on their underlined headers below in the blue area.

Apt Slo	Reported y Date. nov ISSUED Date	Hzrd Class		Violation ID. NOV ID	Violation Description	Status Osio	Owner Certification Dates: 3st Lead, 2nd Lead
2R 2	2005/12/29 2006/01/04	В	501	5919871 2582432		NOV LATE 2006/05/23	2006/02/27
2R 2	2005/12/29 2005/01/04	B	501	5919886 2582432	§ 27-2005 adm code properly repair the proken or defective sagging wood floor in the kilbhan located at apt 2r, 2nd story, apartment at south	NOV LATE 2006/05/23	2006/02/27
D	2005/10/19 2005/10/25	В	501	5791818 25183 <del>94</del>	§ 27-2005 adm code properly repair the broken or defective outer stair stringer stanted 1sty to 4sty at public hall stairs	NOT COMPLIED 2006/05/D3	2005/12/18
R 3	2005/10/19 2005/10/25	B	501	5791856 2518396	§ 27-2005 adm code properly repair the broken or defective sagging floor in the entire approximent located at apt 3r, 3rd story, operanent at south	NOT COMPLIED 2006/05/03	2005/12/18
-	1996/06/25 2005/06/09	8		2426140	§ 27-2005 nom code property repair with similar material the broken or defective eroded motar joints 2 to above 4 sty at northeast cover.	NOT COMPLIED 2006/05/03	2005/08/02
<u>.</u>	1994/10/21 2005/06/09	-		7476141	§ 27-2031 adm code provide hot water at all hot water fixtures kitchen 8 bathroom Z sty northeast opt 27. located at apt 27	1 NO ACCESS 2006/05/11	•
	19 <del>9</del> 4/06/28 2005/06/09			2426139	D 3343003 Solit Code Lebon, gid piazzi, e.	1 NO ACCESS 2006/05/11	2005/10/01

# HPD Building In Case 1:07-cv-11034-SAS Document 14-9 Filed 05/20/2008 Page 16 of 16

2F ·	1994/06/28 2005/06/09	В	566 116	2798393 2426140	§ 27-2018 adm code abute the nulsance consisting of vermin mice and roaches 2 sty east apt 2/ kitchen. located at apt 2/	1 NO ACCESS 2006/05/11	2005/08/02 -
2F •	1994/D6/26 1994/07/19	£	555 117	2798394 545845	§ 27-2013 adm code remove or cover in a manner approved by the department the peeling head paint west wall 2 sty cost apt 2/ bathroom lozano 239 5063 er1, located at apt 2/	1 NO ACCESS 2006/05/11	1954/08/10
1 -	1988/10/19 2005/06/09	е	510 91	2798369 2426140	§ 27-2005 adm code B 309 m/d law abate the nulsance consisting of exposed electric wires 2 styless; ast 1 betingon, located at apt 1	1 NO ACCESS 2006/05/11	2005/08/07
	1984/01/26 2005/06/09	A	484 80	2798365 2426139		NOT COMPLIED 2006/05/03	2005/10/01
qF -	1975/04/22 2005/06/09	A	356 46	2425130	d26-12.01 adm code paint with light colored paint to the satisfaction of this department wals cellings and woodwork 4 sty front apt 4f entire.	1 NO ACCESS 2006/05/11	2005/10/01

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# **EXHIBIT I**



## **Dubinsky Consulting Engineers. PC**

DESIGN, DEVELOPMENT, INSPECTION, PROPERTY EVALUATION
45 West 34° Street,
New York, NY 10001

Tel. 212.594.1153
Fax. 212.594.9376

# INSPECTION REPORT NO: 08-02-05

PREMISES: 311 10<sup>th</sup> Avenue, NYC aka 500 West 28<sup>th</sup> Street, NYC

Block No. 699 Lot No. 37

DATE: September 7, 2005

EXHIBIT

Kobsons 12

4/28/08

Premises: 311 10<sup>th</sup> Avenue, NYC AKA 500 West 28<sup>th</sup> Street, NYC

Block No. 699 Lot No. 37

Building Description: 4 story with basement and store front on 10th Avenue, NYC

Date: September 7, 2005

As requested, Dubinsky Consulting Engineers, PC, performed the inspection of existing four stories residential building with first floor commercial space.

The structure of the building consists of:

- A. Foundations and foundation walls made of concrete and stone with brick bearing piers.
- B. First floor wood floor is supported by wood joists and steel beams.
- C. Upper levels and roof wood deck consist of wood flooring on top of 3" x 8" wood joists located at 16" +/- on center.

The masonry South wall of the building is covered with waterproofing stucco (see photo # 2) and revealed numerous cracks, holes and missing bricks (see photos ## 7 and 8). The expansion joint between adjacent loading dock and the building was in poor condition and two buildings are bound together at the stair level which caused cracks above (see photo # 7).

The South wall, which a bearing wall, is bulging out above street level and unless corrective measures are taken, it could farther deteriorate and collapse.

Inspection and examination of the basement revealed major cracks and missing section of the masonry bearing piers supporting front masonry wall as well as a portion of the sidewalk (see photos ## 9, 10, 11, 12 and 13).

Its dangerous condition is evident since that crack is over 1" wide and a (kitchen knife inserted in the crack can be seen see photo # 12).

Sections of the masonry piers are missing and repairs made in the past are inadequate and showing signs of deterioration.

These masonry piers support steel beams and stress cracks are evident under them (see photos ## 9 and 10). The conditions of the piers supporting steel beams is dangerous and immediate remedial work is required.

The bearing wall at the North revealed numerous diagonal and horizontal cracks as well as damaged stone windowsills and lintels. There is clearly evidence that leakages thru the walls aggravated these conditions and major repairs are required (see photos #: 3, 4, 5 and 6).

The interior wood stair between floors is warping and leaning away from the exterior wall (see photos ## 15 and 16). Stair landing and hallways are sloping to the center of the building. In some locations the slope was more than 2" (see photo # 21) and floor inside the apartments was raised to keep it leveled. This is a typical condition where floor level in the apartment is higher than the hallway.

Photos ## 20, 22 and 26 shows conditions where doors are not closing properly due to crocked and distorted doorframe related to the sloped floor. In addition to the hallway sloping floor (North-South direction), the floors are sloping in East-West direction too, towards the bathrooms at each apartment. The bathrooms are located at the middle of the building and due to numerous leaks in the past intermediate bearing wood partition and deteriorated as well as some of the floor joists.

These deflections are dangerous (weight of concrete mud and ceramic tiles is concentrated in this area) and if not addressed properly could farther deteriorate and cause a collapse of the middle portions of the floors.

Photos #: 17 and 18 shows deflected ceiling as well as cracks in the walls, Photos #: 27 and 28 indicate cracks in the ceiling due to leakages and deflections.

Photos #: 29, 30, 31 and 32 of the roof indicate the parapet which is not as required by code, which is of 3'-6" height for roof with access to public.

There also is a metal scrap yard on the West side less than 100' from the buildings and the equipment used there (the crane, the crashers etc...) create vibrations and induces more cracks and deterioration to the building.

In addition to the above there are many areas with old led paint which is hazardous to health and which its removal requires a major undertaking and complete absence evacuation of the tenants in the building.

## Conclusions:

The repairs of the building are absolutely necessary and all precaution must be taken ASAP to prevent dangerous conditions and possible collapse.

Due to the amount of repairs, associated cost and due to the length of time it will take to perform this task, we will recommend two options:

## Option I

Remove all tenants from the building, demolish the structure and build new building according to NY City Code and Zoning requirements.

## Option II

- Remove all tenants from the building and replace most of the floor decks and floor joists.
- Replace all plumbing and electrical wiring.
- Repair and rebuild masonry walls (as required)
- Scrape and remove led paint as regulated by NY City Building Code.

Regardless which option will be accepted the vacation of the building is required ASAP since there is no guarantee how long the existing structure can hold up in the present condition.

If you have any questions regarding this matter please do not hesitate to contact our office for further assistance

Very truly yours:

Eli R. Dubinsky,

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# STEVEN A. SEKLIR Attorney At Law

386 Park Avenue South Suite 500 New York, NY 10016

EMAIL: SASEKLIR@VERIZON.NET Tel (212) 505-4040 x 104 Fax (212) 505-4008

February 3, 2006

Laura V. Osorio, RA, Manhattan Borough Commissioner NYC Department of Buildings 280 Broadway, 3rd Fl. New York, NY 10007

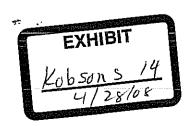
Re: 311 Tenth Avenue a/k/a 500 West 28th Street, New York, NY

## Dear Commissioner Osorio:

I am the attorney for C.D. Kobsons, Inc. the owner of the above-referenced property. My client has asked me to write you regarding the serious structural problem in the building which was discussed at a meeting at your offices yesterday with Mrs. Doungrat Earntrakul, the principal, and her architect, Alex Nussbaumer.

As was discussed at the meeting the owner's structural engineers and architect have both rendered written reports stating that the building is an unsafe and dangerous condition due to structural cracks and deflection of the floor framing. Mr. Nussbaumer states that although it is difficult to predict when the floor framing might fail, it definitely will fail. In September, 2005 we advised the tenants of the findings of the structural engineer and asked them to vacate the building for their safety.

As you know, my client would like to demolish the existing structure and construct new housing on the site. My client has offered to relocate the existing residential tenants at her expense and to pay the difference between their current rents and the relocation rents until they can be provided apartments in the new building.



Laura V. Osorio, RA, February 2, 2006 Page 2

My client came away from yesterday's meeting with the understanding that you would not issue a vacate order based on the conditions described in the reports of the structural engineer and architect unless and until there is a partial collapse of the structure. She also understood that you would review the matter with Mr. Aviles and have a licensed engineer inspect the building.

I would appreciate if you would confirm whether or not the foregoing is accurate account of the meeting.

Very truly yours,

Steven A. Seklir

SAS/ps

Mrs. Doungrat Earntrakul c: Alex Nussbaumer, RA

Case 1:07-cv-11034-SAS

برمنت

## DocuDubinsky Constanting Engineers. PC

DESIGN, DEVELOPMENT, INSPECTION, PROPERTY EVALUATION

45 West 34th Street, New York, NY 10001 Tel.: (212) 594-1153 Fax.: (212) 594-9376

October 18, 2006

Ms. Patricia J. Lancaster, Commissioner New York City Department of Building 280 Broadway, 3<sup>rd</sup> Floor New York, NY 10007

Re: 311 Tenth Avenue, New York, N.Y. 10001 (South West Corner of 28th Street, New York, N.Y.) Block #: 699 & Lot #: 37 - Summary of Inspections, Monitoring and Letters

Dear Ms. Lancaster

Ms. Diane Earntrakul President of C.D. Kobsons, Inc. the owner of the building mentioned above engaged our services more than a year ago, to inspect the building and report to her of our findings.

Our report dated September 07 2005, (copy enclosed), indicate numerous deficiencies and structural concerns we had and include our recommendations.

Ms. Laura V.Osario Borough Commissioner met with Ms. Diane Eamtrakul and Architect Alex to go over our report and issued a letter copy enclosed, in which she instructed the owner to provide tell tale taps and provide monitoring.

As you can see from our letter some changes occurred showing movements in the building, also worsening floors sagging conditions occurred.

On February 16 2006, Mr. Shenovda Commissioner Assistant with Inspector Aviles and Faisal Mohammed the Department the Department of Building Engineer came to inspect the cracks in the basement and upstairs wall and deflection of floors, warping of stairs and sloping floors.

No report of their finding was ever given to Ms. Earntrakul despite assurance by the inspectors of the Department of Building.

On March 07 2006, tell tale taps were installed and movements were monitored since on March 16 2006, Mr. Aviles of the Building Department was called in to observe stress cracks on floor beams at the 2<sup>nd</sup> floor and bad sagging conditions.



Re: Re: 311 Tenth Avenue, New York, N.Y. 10001 (South West Corner of 28th Street, New York, N.Y.)

Block #: 699 & Lot #: 37 - Summary of Inspections, Monitoring and Letters

October 18, 2006

Page 2

Again no response in writing from Department of Buildings. On April 11 2006, we visited the site to observe the cracks in the beams at 2<sup>nd</sup> floor.

On August 09 2006, due to a crack that seems to be widening in the foundation stone wall at entry to the basement, new tell tale was installed at this crack.

I would appreciate if Department of Buildings will provide us with copies of DOB Engineer's reports.

It is now over a year since we reported to the Department of Buildings of the condition of the building. The metal recycle yard with heavy crashing equipment and recent construction on the site of 303-309 10<sup>th</sup>. Avenue, which is a gas station excavation work on the site adjacent to the building and Con Edison work at the street corner do not help and cause more vibrations etc....

We will strongly recommend to demolish the existing building and rebuilt (see also Ms. Osorio's letter).

Please response expeditiously to safe guard the building and prevent farther damage or worst.

Very truly yours:

Eli R. Dubinsky, P

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